

SENATE AMENDMENTS

2nd Printing

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H.B. No. 1490

A BILL TO BE ENTITLED

AN ACT

relating to public school interventions for truancy and eliminating
a criminal penalty and authorizing a civil penalty for truancy.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 45.0216(g), Code of Criminal Procedure,
is amended to read as follows:

(g) This article does not apply to any offense otherwise
covered by:

(1) Chapter 106, Alcoholic Beverage Code; or

(2) Chapter 161, Health and Safety Code[~~, or~~

~~[(3) Section 25.094, Education Code]~~.

SECTION 2. Articles 45.054(a) and (i), Code of Criminal
Procedure, are amended to read as follows:

(a) On a finding by a county, justice, or municipal court
that an individual has engaged in conduct that violates [~~committed~~
~~an offense under~~] Section 25.094, Education Code, the court has
jurisdiction to enter an order that includes one or more of the
following provisions requiring that:

(1) the individual:

(A) attend school without unexcused absences;

(B) attend a preparatory class for the high
school equivalency examination administered under Section 7.111,
Education Code, if the court determines that the individual is too
old to do well in a formal classroom environment; or

1 (C) if the individual is at least 16 years of age,
2 take the high school equivalency examination administered under
3 Section 7.111, Education Code;

4 (2) the individual attend a special program that the
5 court determines to be in the best interest of the individual,
6 including:

7 (A) an alcohol and drug abuse program;

8 (B) a rehabilitation program;

9 (C) a counseling program, including
10 self-improvement counseling;

11 (D) a program that provides training in
12 self-esteem and leadership;

13 (E) a work and job skills training program;

14 (F) a program that provides training in
15 parenting, including parental responsibility;

16 (G) a program that provides training in manners;

17 (H) a program that provides training in violence
18 avoidance;

19 (I) a program that provides sensitivity
20 training; and

21 (J) a program that provides training in advocacy
22 and mentoring;

23 (3) the individual and the individual's parent attend
24 a class for students at risk of dropping out of school designed for
25 both the individual and the individual's parent;

26 (4) the individual complete reasonable community
27 service requirements; or

1 (5) for the total number of hours ordered by the court,
2 the individual participate in a tutorial program covering the
3 academic subjects in which the student is enrolled provided by the
4 school the individual attends.

5 (i) A county, justice, or municipal court shall dismiss the
6 complaint against an individual alleging that the individual has
7 engaged in conduct that violates [~~committed an offense under~~]
8 Section 25.094, Education Code, if:

9 (1) the court finds that the individual has
10 successfully complied with the conditions imposed on the individual
11 by the court under this article; or

12 (2) the individual presents to the court proof that
13 the individual has obtained a high school diploma or a high school
14 equivalency certificate.

15 SECTION 3. Subchapter B, Chapter 45, Code of Criminal
16 Procedure, is amended by adding Article 45.0541 to read as follows:

17 Art. 45.0541. AUTOMATIC EXPUNCTION OF TRUANCY RECORDS. (a)
18 In this article, "truancy offense" means an offense committed under
19 Section 25.094, Education Code.

20 (b) An individual who has been convicted of a truancy
21 offense or has had a complaint for a truancy offense dismissed is
22 entitled to have the conviction or complaint and records relating
23 to the conviction or complaint automatically expunged.

24 (c) The court in which the individual was convicted or a
25 complaint for a truancy offense was filed shall order the
26 conviction, complaints, verdicts, sentences, and other documents
27 relating to the offense, including any documents in the possession

1 of a school district or law enforcement agency, to be expunged from
2 the individual's record. After entry of the order, the individual
3 is released from all disabilities resulting from the conviction or
4 complaint, and the conviction or complaint may not be shown or made
5 known for any purpose. The court shall inform the individual of the
6 expunction.

7 SECTION 4. Article 102.014(d), Code of Criminal Procedure,
8 is amended to read as follows:

9 (d) A person convicted of an offense under Section 25.093,
10 Education Code, or found to have engaged in conduct that violates
11 Section 25.094, Education Code, shall pay as taxable court costs
12 \$20 in addition to other taxable court costs. The additional court
13 costs under this subsection shall be collected in the same manner
14 that other fines and taxable court costs in the case are collected.

15 SECTION 5. Sections 25.091(a) and (b), Education Code, are
16 amended to read as follows:

17 (a) A peace officer serving as an attendance officer has the
18 following powers and duties concerning enforcement of compulsory
19 school attendance requirements:

20 (1) to investigate each case of a violation of
21 compulsory school attendance requirements referred to the peace
22 officer;

23 (2) to enforce compulsory school attendance
24 requirements by:

25 (A) applying truancy prevention measures and, if
26 applicable, progressive truancy interventions adopted under
27 Section 25.0915 to the student; and

1 (B) if the truancy prevention measures and, if
2 applicable, progressive truancy interventions fail to meaningfully
3 address the student's conduct:

4 (i) referring the student to a juvenile
5 court or filing a complaint against the student in a county,
6 justice, or municipal court if the student has unexcused absences
7 for the amount of time specified under Section 25.094 or under
8 Section 51.03(b)(2), Family Code; or

9 (ii) filing a complaint in a county,
10 justice, or municipal court against a parent who violates Section
11 25.093;

12 (3) to serve court-ordered legal process;

13 (4) to review school attendance records for compliance
14 by each student investigated by the officer;

15 (5) to maintain an investigative record on each
16 compulsory school attendance requirement violation and related
17 court action and, at the request of a court, the board of trustees
18 of a school district, or the commissioner, to provide a record to
19 the individual or entity requesting the record;

20 (6) to make a home visit or otherwise contact the
21 parent of a student who is in violation of compulsory school
22 attendance requirements, except that a peace officer may not enter
23 a residence without the permission of the parent of a student
24 required under this subchapter to attend school or of the tenant or
25 owner of the residence except to lawfully serve court-ordered legal
26 process on the parent; and

27 (7) to take a student into custody with the permission

1 of the student's parent or in obedience to a court-ordered legal
2 process.

3 (b) An attendance officer employed by a school district who
4 is not commissioned as a peace officer has the following powers and
5 duties with respect to enforcement of compulsory school attendance
6 requirements:

7 (1) to investigate each case of a violation of the
8 compulsory school attendance requirements referred to the
9 attendance officer;

10 (2) to enforce compulsory school attendance
11 requirements by:

12 (A) applying truancy prevention measures and, if
13 applicable, progressive truancy interventions adopted under
14 Section 25.0915 to the student; and

15 (B) if the truancy prevention measures and, if
16 applicable, progressive truancy interventions fail to meaningfully
17 address the student's conduct:

18 (i) referring the student to a juvenile
19 court or filing a complaint against the student in a county,
20 justice, or municipal court if the student has unexcused absences
21 for the amount of time specified under Section 25.094 or under
22 Section 51.03(b)(2), Family Code; and

23 (ii) filing a complaint in a county,
24 justice, or municipal court against a parent who violates Section
25 25.093;

26 (3) to monitor school attendance compliance by each
27 student investigated by the officer;

1 (4) to maintain an investigative record on each
2 compulsory school attendance requirement violation and related
3 court action and, at the request of a court, the board of trustees
4 of a school district, or the commissioner, to provide a record to
5 the individual or entity requesting the record;

6 (5) to make a home visit or otherwise contact the
7 parent of a student who is in violation of compulsory school
8 attendance requirements, except that the attendance officer may not
9 enter a residence without permission of the parent or of the owner
10 or tenant of the residence;

11 (6) at the request of a parent, to escort a student
12 from any location to a school campus to ensure the student's
13 compliance with compulsory school attendance requirements; and

14 (7) if the attendance officer has or is informed of a
15 court-ordered legal process directing that a student be taken into
16 custody and the school district employing the officer does not
17 employ its own police department, to contact the sheriff,
18 constable, or any peace officer to request that the student be taken
19 into custody and processed according to the legal process.

20 SECTION 6. The heading to Section 25.0915, Education Code,
21 is amended to read as follows:

22 Sec. 25.0915. TRUANCY PREVENTION MEASURES AND PROGRESSIVE
23 TRUANCY INTERVENTIONS; REFERRAL AND FILING REQUIREMENT.

24 SECTION 7. Sections 25.0915(a), (b), and (c), Education
25 Code, are amended to read as follows:

26 (a) A school district shall adopt truancy prevention
27 measures and may adopt progressive truancy interventions for

1 students who violate compulsory attendance requirements that are
2 designed to:

3 (1) address student conduct related to truancy in the
4 school setting;

5 (2) minimize the need for referrals to juvenile court
6 for conduct described by Section 51.03(b)(2), Family Code; and

7 (3) minimize the filing of complaints in county,
8 justice, and municipal courts alleging a violation of Section
9 25.094.

10 (b) Each referral to juvenile court for conduct described by
11 Section 51.03(b)(2), Family Code, or complaint filed in county,
12 justice, or municipal court alleging a violation by a student of
13 Section 25.094 must:

14 (1) be accompanied by a statement from the student's
15 school certifying that:

16 (A) the school applied the truancy prevention
17 measures and, if applicable, the progressive truancy interventions
18 adopted under Subsection (a) to the student; and

19 (B) the truancy prevention measures and, if
20 applicable, the progressive truancy interventions failed to
21 meaningfully address the student's school attendance; and

22 (2) specify whether the student is eligible for or
23 receives special education services under Subchapter A, Chapter 29.

24 (c) A court shall dismiss a complaint or referral made by a
25 school district under this section that is not made in compliance
26 with Subsection (b), does not satisfy the elements required for the
27 offense, is not timely filed, or is otherwise defective. A

1 dismissal under this section must be made before a hearing of the
2 complaint or referral is scheduled and without requiring the
3 presence of the defendant.

4 SECTION 8. Subchapter C, Chapter 25, Education Code, is
5 amended by adding Section 25.0917 to read as follows:

6 Sec. 25.0917. PROGRESSIVE TRUANCY INTERVENTION SYSTEM. (a)
7 A system of progressive interventions for truancy adopted by a
8 school district under Section 25.0915 must include at least three
9 tiers of interventions.

10 (b) A school district may apply the first tier of
11 interventions to a student who has at least three unexcused
12 absences within a school year, and may apply successive tiers of
13 interventions to the student if the student continues to accumulate
14 unexcused absences following the application of the first tier
15 consequences.

16 (c) The first tier of progressive truancy interventions
17 must include:

18 (1) a conference with the student, the student's
19 parent or guardian, and an employee of the school that the student
20 attends and regularly scheduled follow-up meetings to assess the
21 student's progress; and

22 (2) an attendance contract, signed by the attendees of
23 the conference under Subdivision (1), that includes:

24 (A) a description of the attendance expectations
25 that the school has for the student;

26 (B) the period for which the contract is in
27 effect, not to exceed 45 days following the date the contract is

1 signed; and

2 (C) a description of the consequences that may be
3 imposed on the student if the student accumulates additional
4 absences or commits school offenses, which may include additional
5 disciplinary actions or a referral to juvenile court.

6 (d) At least one of the tiers of truancy interventions after
7 the first tier must include an individualized assessment of the
8 student by a school employee that:

9 (1) identifies the reasons that the student has
10 accumulated unexcused absences;

11 (2) refers the student to counseling, if necessary;
12 and

13 (3) refers the student to any services, including
14 school-sponsored or community-based services, that focus on
15 addressing the student's absences from school.

16 (e) The consequences imposed on a student who has
17 accumulated additional unexcused absences following the
18 application of the first tier of progressive truancy intervention
19 consequences may include:

20 (1) school-based community service;

21 (2) participation in a school-based restorative
22 justice program;

23 (3) referral to a school-based teen court;

24 (4) weekend courses designed to improve attendance and
25 behavior;

26 (5) if the student is eligible for or is receiving
27 special education services under Subchapter A, Chapter 29, from a

1 school district, or is covered by Section 504, Rehabilitation Act
2 of 1973 (29 U.S.C. Section 794), a full reevaluation under Section
3 29.004 or under Section 504 of the Rehabilitation Act of 1973, as
4 appropriate, or an assessment of the student's individualized
5 education program to address the causes of the student's unexcused
6 absences, as necessary; or

7 (6) if the student is not receiving special education
8 services from a school district, an initial evaluation for special
9 education services under Section 29.004 or under Section 504,
10 Rehabilitation Act of 1973 (29 U.S.C. Section 794), as appropriate.

11 SECTION 9. Section 25.094, Education Code, is amended by
12 amending Subsections (a), (b), (c), (d-1), (f), and (g) and adding
13 Subsections (e-1) and (e-2) to read as follows:

14 (a) An individual is liable to the state for a civil penalty
15 not to exceed \$100 [~~commits an offense~~] if the individual:

16 (1) is 12 years of age or older and younger than 18
17 years of age;

18 (2) is required to attend school under Section 25.085;
19 and

20 (3) fails to attend school on 10 or more days or parts
21 of days within a six-month period in the same school year or on
22 three or more days or parts of days within a four-week period.

23 (b) An action [~~offense~~] under this section may be brought
24 [~~prosecuted~~] in:

25 (1) the constitutional county court of the county in
26 which the individual resides or in which the school is located, if
27 the county has a population of 1.75 million or more;

1 (2) a justice court of any precinct in the county in
2 which the individual resides or in which the school is located; or

3 (3) a municipal court in the municipality in which the
4 individual resides or in which the school is located.

5 (c) On a finding by the county, justice, or municipal court
6 ~~[that the individual has committed an offense under Subsection (a)~~
7 ~~or on a finding by a juvenile court in a county with a population of~~
8 ~~less than 100,000]~~ that the individual has engaged in conduct that
9 violates Subsection (a), the court may enter an order that includes
10 one or more of the requirements listed in Article 45.054, Code of
11 Criminal Procedure~~[, as added by Chapter 1514, Acts of the 77th~~
12 ~~Legislature, Regular Session, 2001]~~.

13 (d-1) Pursuant to an order of the county, justice, or
14 municipal court based on an affidavit showing probable cause to
15 believe that an individual has violated ~~[committed an offense~~
16 ~~under]~~ this section, a peace officer may issue a citation or take
17 the individual into custody. A peace officer taking an individual
18 into custody under this subsection shall:

19 (1) promptly notify the individual's parent, guardian,
20 or custodian of the officer's action and the reason for that action;
21 and

22 (2) without unnecessary delay:

23 (A) release the individual to the individual's
24 parent, guardian, or custodian or to another responsible adult, if
25 the person promises to bring the individual to the county, justice,
26 or municipal court as requested by the court; or

27 (B) bring the individual to a county, justice, or

1 municipal court with venue over the offense.

2 (e-1) The imposition of a civil penalty under this section
3 is not a conviction and may not be considered a conviction for any
4 purpose.

5 (e-2) The district or county attorney of the county in which
6 the conduct described by this section is alleged to have occurred
7 shall bring an action in a county, justice, or municipal court to
8 collect the civil penalty of a person who is taken into custody or
9 is issued a citation for a violation under this section.

10 (f) It is a ~~[an affirmative]~~ defense ~~[to prosecution]~~ under
11 this section that one or more of the absences required to be proven
12 under Subsection (a) were excused by a school official or by the
13 court or that one or more of the absences were involuntary, but only
14 if there is an insufficient number of unexcused or voluntary
15 absences remaining to constitute an offense under this section. The
16 burden is on the respondent ~~[defendant]~~ to show by a preponderance
17 of the evidence that the absence has been excused or that the
18 absence was involuntary. A decision by the court to excuse an
19 absence for purposes of this section does not affect the ability of
20 the school district to determine whether to excuse the absence for
21 another purpose.

22 (g) It is a ~~[an affirmative]~~ defense ~~[to prosecution]~~ under
23 this section that one or more of the absences required to be proven
24 under Subsection (a) was involuntary. The burden is on the
25 respondent ~~[defendant]~~ to show by a preponderance of the evidence
26 that the absence was involuntary.

27 SECTION 10. Sections 25.095(a) and (c), Education Code, are

1 amended to read as follows:

2 (a) A school district or open-enrollment charter school
3 shall notify a student's parent in writing at the beginning of the
4 school year that if the student is absent from school on 10 or more
5 days or parts of days within a six-month period in the same school
6 year or on three or more days or parts of days within a four-week
7 period:

8 (1) the student's parent is subject to prosecution
9 under Section 25.093; and

10 (2) the student is subject to an action brought
11 ~~[prosecution]~~ under Section 25.094 or to referral to a juvenile
12 court ~~[in a county with a population of less than 100,000]~~ for
13 conduct indicating a need for supervision ~~[that violates that~~
14 ~~section]~~.

15 (c) The fact that a parent did not receive a notice under
16 Subsection (a) or (b) does not create a defense to prosecution under
17 Section 25.093, a defense to an action brought under Section ~~[or]~~
18 25.094, or a defense in a disposition hearing on an issue as to
19 whether the child engaged in conduct indicating a need for
20 supervision.

21 SECTION 11. Sections 25.0951(a) and (b), Education Code,
22 are amended to read as follows:

23 (a) If a student fails to attend school without excuse on 10
24 or more days or parts of days within a six-month period in the same
25 school year, a school district may ~~[shall]~~ within 10 school days of
26 the student's most recent ~~[10th]~~ absence:

27 (1) file a complaint against the ~~[student or the]~~

1 student's parent ~~[or both]~~ in a county, justice, or municipal court
2 for an offense under Section 25.093, bring an action in a county,
3 justice, or municipal court for conduct that violates Section ~~[or]~~
4 25.094, ~~[as appropriate,]~~ or refer the student to a juvenile court
5 for a determination as to whether the child engaged in conduct
6 indicating a need for supervision ~~[in a county with a population of~~
7 ~~less than 100,000 for conduct that violates Section 25.094]~~; or

8 (2) refer the student to a juvenile court for conduct
9 indicating a need for supervision under Section 51.03(b)(2), Family
10 Code.

11 (b) If a student fails to attend school without excuse on
12 three or more days or parts of days within a four-week period but
13 does not fail to attend school for the time described by Subsection
14 (a), the school district may:

15 (1) file a complaint against the ~~[student or the]~~
16 student's parent ~~[or both]~~ in a county, justice, or municipal court
17 for an offense under Section 25.093, bring an action in a county,
18 justice, or municipal court for conduct that violates Section ~~[or]~~
19 25.094, ~~[as appropriate,]~~ or refer the student to a juvenile court
20 for a determination as to whether the child engaged in conduct
21 indicating a need for supervision ~~[in a county with a population of~~
22 ~~less than 100,000 for conduct that violates Section 25.094]~~; or

23 (2) refer the student to a juvenile court for conduct
24 indicating a need for supervision under Section 51.03(b)(2), Family
25 Code.

26 SECTION 12. Section 51.02(15), Family Code, is amended to
27 read as follows:

(15) "Status offender" means a child who is accused, adjudicated, or convicted for conduct that would not, under state law, be a crime if committed by an adult, including:

(A) truancy under Section 51.03(b)(2);

(B) running away from home under Section 51.03(b)(3);

(C) a fineable only offense under Section 51.03(b)(1) transferred to the juvenile court under Section 51.08(b), but only if the conduct constituting the offense would not have been criminal if engaged in by an adult;

(D) ~~[failure to attend school under Section 25.094, Education Code,~~

~~(E)]~~ a violation of standards of student conduct as described by Section 51.03(b)(5);

(E) ~~(F)~~ a violation of a juvenile curfew ordinance or order;

(F) ~~(G)~~ a violation of a provision of the Alcoholic Beverage Code applicable to minors only; or

(G) ~~(H)~~ a violation of any other fineable only offense under Section 8.07(a)(4) or (5), Penal Code, but only if the conduct constituting the offense would not have been criminal if engaged in by an adult.

SECTION 13. Sections 54.021(b), (c), (d), and (e), Family Code, are amended to read as follows:

(b) A county, justice, or municipal court may exercise jurisdiction over a person alleged to have engaged in conduct indicating a need for supervision by engaging in conduct described

in Section 51.03(b)(2) in a case where:

(1) the person is 12 years of age or older;

(2) the juvenile court has waived its original jurisdiction under this section; and

(3) an action [~~a complaint~~] is filed by the appropriate authority in the county, justice, or municipal court for a violation [~~charging an offense~~] under Section 25.094, Education Code.

(c) A proceeding in a county, justice, or municipal court on a complaint charging conduct that violates [~~an offense under~~] Section 25.094, Education Code, is governed by Chapter 45, Code of Criminal Procedure.

(d) Notwithstanding any other law, the costs assessed in a case filed in or transferred to a constitutional county court for an offense under Section 25.093, Education Code, or for conduct that violates Section 25.094, Education Code, must be the same as the costs assessed for a case filed in a justice court for an offense under Section 25.093, Education Code, or for conduct that violates Section 25.094, Education Code.

(e) The proceedings before a constitutional county court related to an offense under Section 25.093, Education Code, or conduct that violates Section 25.094, Education Code, may be recorded in any manner provided by Section 30.00010, Government Code, for recording proceedings in a municipal court of record.

SECTION 14. Section 54.1955, Government Code, is amended to read as follows:

Sec. 54.1955. POWERS. (a) Except as limited by an order of

1 the county judge, a magistrate appointed under this subchapter may:

- 2 (1) conduct hearings;
- 3 (2) hear evidence;
- 4 (3) issue summons for the appearance of witnesses;
- 5 (4) examine witnesses;
- 6 (5) swear witnesses for hearings;
- 7 (6) recommend rulings or orders or a judgment in a
- 8 case;

- 9 (7) regulate proceedings in a hearing;
- 10 (8) accept a plea of guilty or nolo contendere in a
- 11 case alleging a violation of Section 25.093 [~~or 25.094~~], Education
- 12 Code, and assess a fine or court costs or order community service in
- 13 satisfaction of a fine or costs in accordance with Article 45.049,
- 14 Code of Criminal Procedure;

- 15 (9) enter an order suspending a sentence or deferring
- 16 a final disposition that includes at least one of the requirements
- 17 listed in Article 45.051, Code of Criminal Procedure;

- 18 (10) perform any act and take any measure necessary
- 19 and proper for the efficient performance of the duties required by
- 20 the referral order, including the entry of an order that includes at
- 21 least one of the requirements in Article 45.054, Code of Criminal
- 22 Procedure; and

- 23 (11) if the magistrate finds that a child as defined by
- 24 Article 45.058, Code of Criminal Procedure, has violated an order
- 25 under Article 45.054, Code of Criminal Procedure, proceed as
- 26 authorized by Article 45.050, Code of Criminal Procedure.

- 27 (b) With respect to an issue of law or fact the ruling on

1 which could result in the dismissal of a prosecution under Section
2 25.093, Education Code, or an action brought under Section 25.094,
3 Education Code, a magistrate may not rule on the issue but may make
4 findings, conclusions, and recommendations on the issue.

5 SECTION 15. Section 71.0352, Government Code, is amended to
6 read as follows:

7 Sec. 71.0352. JUVENILE DATE: JUSTICE, MUNICIPAL, AND
8 JUVENILE COURTS. As a component of the official monthly report
9 submitted to the Office of Court Administration of the Texas
10 Judicial System:

11 (1) justice and municipal courts shall report the
12 number of cases filed for the following ~~offenses~~:

13 (A) failure to attend school under Section
14 25.094, Education Code;

15 (B) parent contributing to nonattendance under
16 Section 25.093, Education Code; and

17 (C) violation of a local daytime curfew ordinance
18 adopted under Section 341.905 or 351.903, Local Government Code;
19 and

20 (2) in cases in which a child fails to obey an order of
21 a justice or municipal court under circumstances that would
22 constitute contempt of court, the justice or municipal court shall
23 report the number of incidents in which the child is:

24 (A) referred to the appropriate juvenile court
25 for delinquent conduct as provided by Article 45.050(c)(1), Code of
26 Criminal Procedure, and Section 51.03(a)(2), Family Code; or

27 (B) held in contempt, fined, or denied driving

1 privileges as provided by Article 45.050(c)(2), Code of Criminal
2 Procedure.

3 SECTION 16. Section 103.021, Government Code, is amended to
4 read as follows:

5 Sec. 103.021. ADDITIONAL FEES AND COSTS IN CRIMINAL OR
6 CIVIL CASES: CODE OF CRIMINAL PROCEDURE. An accused or
7 defendant, or a party to a civil suit, as applicable, shall pay the
8 following fees and costs under the Code of Criminal Procedure if
9 ordered by the court or otherwise required:

10 (1) a personal bond fee (Art. 17.42, Code of Criminal
11 Procedure) . . . the greater of \$20 or three percent of the amount
12 of the bail fixed for the accused;

13 (2) cost of electronic monitoring as a condition of
14 release on personal bond (Art. 17.43, Code of Criminal Procedure)
15 . . . actual cost;

16 (3) a fee for verification of and monitoring of motor
17 vehicle ignition interlock (Art. 17.441, Code of Criminal
18 Procedure) . . . not to exceed \$10;

19 (3-a) costs associated with operating a global
20 positioning monitoring system as a condition of release on bond
21 (Art. 17.49(b)(2), Code of Criminal Procedure) . . . actual costs,
22 subject to a determination of indigency;

23 (3-b) costs associated with providing a defendant's
24 victim with an electronic receptor device as a condition of the
25 defendant's release on bond (Art. 17.49(b)(3), Code of Criminal
26 Procedure) . . . actual costs, subject to a determination of
27 indigency;

1 (4) repayment of reward paid by a crime stoppers
2 organization on conviction of a felony (Art. 37.073, Code of
3 Criminal Procedure) . . . amount ordered;

4 (5) reimbursement to general revenue fund for payments
5 made to victim of an offense as condition of community supervision
6 (Art. 42.12, Code of Criminal Procedure) . . . not to exceed \$50 for
7 a misdemeanor offense or \$100 for a felony offense;

8 (6) payment to a crime stoppers organization as
9 condition of community supervision (Art. 42.12, Code of Criminal
10 Procedure) . . . not to exceed \$50;

11 (7) children's advocacy center fee (Art. 42.12, Code
12 of Criminal Procedure) . . . not to exceed \$50;

13 (8) family violence center fee (Art. 42.12, Code of
14 Criminal Procedure) . . . \$100;

15 (9) community supervision fee (Art. 42.12, Code of
16 Criminal Procedure) . . . not less than \$25 or more than \$60 per
17 month;

18 (10) additional community supervision fee for certain
19 offenses (Art. 42.12, Code of Criminal Procedure) . . . \$5 per
20 month;

21 (11) for certain financially able sex offenders as a
22 condition of community supervision, the costs of treatment,
23 specialized supervision, or rehabilitation (Art. 42.12, Code of
24 Criminal Procedure) . . . all or part of the reasonable and
25 necessary costs of the treatment, supervision, or rehabilitation as
26 determined by the judge;

27 (12) fee for failure to appear for trial in a justice

1 or municipal court if a jury trial is not waived (Art. 45.026, Code
2 of Criminal Procedure) . . . costs incurred for impaneling the
3 jury;

4 (13) costs of certain testing, assessments, or
5 programs during a deferral period (Art. 45.051, Code of Criminal
6 Procedure) . . . amount ordered;

7 (14) special expense on dismissal of certain
8 misdemeanor complaints (Art. 45.051, Code of Criminal Procedure)
9 . . . not to exceed amount of fine assessed;

10 (15) an additional fee:

11 (A) for a copy of the defendant's driving record
12 to be requested from the Department of Public Safety by the judge
13 (Art. 45.0511(c-1), Code of Criminal Procedure) . . . amount equal
14 to the sum of the fee established by Section 521.048,
15 Transportation Code, and the state electronic Internet portal fee;

16 (B) as an administrative fee for requesting a
17 driving safety course or a course under the motorcycle operator
18 training and safety program for certain traffic offenses to cover
19 the cost of administering the article (Art. 45.0511(f)(1), Code of
20 Criminal Procedure) . . . not to exceed \$10; or

21 (C) for requesting a driving safety course or a
22 course under the motorcycle operator training and safety program
23 before the final disposition of the case (Art. 45.0511(f)(2), Code
24 of Criminal Procedure) . . . not to exceed the maximum amount of the
25 fine for the offense committed by the defendant;

26 (16) a request fee for teen court program (Art.
27 45.052, Code of Criminal Procedure) . . . \$20, if the court

1 ordering the fee is located in the Texas-Louisiana border region,
2 but otherwise not to exceed \$10;

3 (17) a fee to cover costs of required duties of teen
4 court (Art. 45.052, Code of Criminal Procedure) . . . \$20, if the
5 court ordering the fee is located in the Texas-Louisiana border
6 region, but otherwise \$10;

7 (18) a mileage fee for officer performing certain
8 services (Art. 102.001, Code of Criminal Procedure) . . . \$0.15 per
9 mile;

10 (19) certified mailing of notice of hearing date (Art.
11 102.006, Code of Criminal Procedure) . . . \$1, plus postage;

12 (20) certified mailing of certified copies of an order
13 of expunction (Art. 102.006, Code of Criminal Procedure) . . . \$2,
14 plus postage;

15 (20-a) a fee to defray the cost of notifying state
16 agencies of orders of expungement (Art. 45.0216, Code of Criminal
17 Procedure) . . . \$30 per application;

18 ~~[(20-b) a fee to defray the cost of notifying state~~
19 ~~agencies of orders of expunction (Art. 45.055, Code of Criminal~~
20 ~~Procedure) . . . \$30 per application.]~~

21 (21) sight orders:

22 (A) if the face amount of the check or sight order
23 does not exceed \$10 (Art. 102.007, Code of Criminal Procedure)
24 . . . not to exceed \$10;

25 (B) if the face amount of the check or sight order
26 is greater than \$10 but does not exceed \$100 (Art. 102.007, Code of
27 Criminal Procedure) . . . not to exceed \$15;

1 (C) if the face amount of the check or sight order
2 is greater than \$100 but does not exceed \$300 (Art. 102.007, Code of
3 Criminal Procedure) . . . not to exceed \$30;

4 (D) if the face amount of the check or sight order
5 is greater than \$300 but does not exceed \$500 (Art. 102.007, Code of
6 Criminal Procedure) . . . not to exceed \$50; and

7 (E) if the face amount of the check or sight order
8 is greater than \$500 (Art. 102.007, Code of Criminal Procedure)
9 . . . not to exceed \$75;

10 (22) fees for a pretrial intervention program:

11 (A) a supervision fee (Art. 102.012(a), Code of
12 Criminal Procedure) . . . \$60 a month plus expenses; and

13 (B) a district attorney, criminal district
14 attorney, or county attorney administrative fee (Art. 102.0121,
15 Code of Criminal Procedure) . . . not to exceed \$500;

16 (23) parking fee violations for child safety fund in
17 municipalities with populations:

18 (A) greater than 850,000 (Art. 102.014, Code of
19 Criminal Procedure) . . . not less than \$2 and not to exceed \$5; and

20 (B) less than 850,000 (Art. 102.014, Code of
21 Criminal Procedure) . . . not to exceed \$5;

22 (24) an administrative fee for collection of fines,
23 fees, restitution, or other costs (Art. 102.072, Code of Criminal
24 Procedure) . . . not to exceed \$2 for each transaction; and

25 (25) a collection fee, if authorized by the
26 commissioners court of a county or the governing body of a
27 municipality, for certain debts and accounts receivable, including

1 unpaid fines, fees, court costs, forfeited bonds, and restitution
2 ordered paid (Art. 103.0031, Code of Criminal Procedure) . . . 30
3 percent of an amount more than 60 days past due.

4 SECTION 17. The following provisions are repealed:

5 (1) Article 45.055, Code of Criminal Procedure; and

6 (2) Section 25.094(e), Education Code.

7 SECTION 18. The changes in law made by this Act apply to a
8 person taken into custody or issued a citation on or after the
9 effective date of this Act, regardless of whether the conduct for
10 which the person was taken into custody or issued a citation
11 occurred before, on, or after that date.

12 SECTION 19. This Act takes effect September 1, 2015.

ADOPTED

MAY 27 2015

Kathy Spaul
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *E. Whitmore*

1 Amend C.S.H.B. No. 1490 (house committee report) by striking
2 all below the enacting clause and substituting the following:

3 SECTION 1. Article 4.14(g), Code of Criminal Procedure, is
4 amended to read as follows:

5 (g) A municipality may enter into an agreement with a
6 contiguous municipality or a municipality with boundaries that are
7 within one-half mile of the municipality seeking to enter into the
8 agreement to establish concurrent jurisdiction of the municipal
9 courts in the municipalities and provide original jurisdiction to a
10 municipal court in which a case is brought as if the municipal court
11 were located in the municipality in which the case arose, for:

12 (1) all cases in which either municipality has
13 jurisdiction under Subsection (a); and

14 (2) cases that arise under Section 821.022, Health and
15 Safety Code [~~or Section 25.094, Education Code~~].

16 SECTION 2. Articles 45.0216(f) and (g), Code of Criminal
17 Procedure, are amended to read as follows:

18 (f) The court shall order the conviction, together with all
19 complaints, verdicts, sentences, and prosecutorial and law
20 enforcement records, and any other documents relating to the
21 offense, expunged from the person's record if the court finds that:

22 (1) for a person applying for the expunction of a
23 conviction for an offense described by Section 8.07(a)(4) or (5),
24 Penal Code, the person was not convicted of any other offense
25 described by Section 8.07(a)(4) or (5), Penal Code, while the
26 person was a child; and

27 (2) for a person applying for the expunction of a
28 conviction for an offense described by Section 43.261, Penal Code,
29 the person was not found to have engaged in conduct indicating a

1 need for supervision described by Section 51.03(b)(7)
2 [~~51.03(b)(8)~~], Family Code, while the person was a child.

3 (g) This article does not apply to any offense otherwise
4 covered by:

5 (1) Chapter 106, Alcoholic Beverage Code; or

6 (2) Chapter 161, Health and Safety Code [~~or~~

7 [~~(3) Section 25.094, Education Code~~].

8 SECTION 3. Subchapter B, Chapter 45, Code of Criminal
9 Procedure, is amended by adding Article 45.0541 to read as follows:

10 Art. 45.0541. EXPUNCTION OF FAILURE TO ATTEND SCHOOL
11 RECORDS. (a) In this article, "truancy offense" means an offense
12 committed under the former Section 25.094, Education Code.

13 (b) An individual who has been convicted of a truancy
14 offense or has had a complaint for a truancy offense dismissed is
15 entitled to have the conviction or complaint and records relating
16 to the conviction or complaint expunged.

17 (c) Regardless of whether the individual has filed a
18 petition for expunction, the court in which the individual was
19 convicted or a complaint for a truancy offense was filed shall order
20 the conviction, complaints, verdicts, sentences, and other
21 documents relating to the offense, including any documents in the
22 possession of a school district or law enforcement agency, to be
23 expunged from the individual's record. After entry of the order,
24 the individual is released from all disabilities resulting from the
25 conviction or complaint, and the conviction or complaint may not be
26 shown or made known for any purpose. The court shall inform the
27 individual of the expunction by sending a notice to the
28 individual's last known address.

29 SECTION 4. Article 45.056(a), Code of Criminal Procedure,
30 as amended by Chapters 1213 (S.B. 1419) and 1407 (S.B. 393), Acts of
31 the 83rd Legislature, Regular Session, 2013, is reenacted and

1 amended to read as follows:

2 (a) On approval of the commissioners court, city council,
3 school district board of trustees, juvenile board, or other
4 appropriate authority, a county court, justice court, municipal
5 court, school district, juvenile probation department, or other
6 appropriate governmental entity may:

7 (1) employ a case manager to provide services in cases
8 involving juvenile offenders who are before a court consistent with
9 the court's statutory powers or referred to a court by a school
10 administrator or designee for misconduct that would otherwise be
11 within the court's statutory powers prior to a case being filed,
12 with the consent of the juvenile and the juvenile's parents or
13 guardians;

14 (2) employ one or more juvenile case managers who:

15 (A) shall assist the court in administering the
16 court's juvenile docket and in supervising the court's orders in
17 juvenile cases; and

18 (B) may provide:

19 (i) prevention services to a child
20 considered at risk of entering the juvenile justice system; and

21 (ii) intervention services to juveniles
22 engaged in misconduct before cases are filed, excluding traffic
23 offenses; or

24 (3) agree in accordance with Chapter 791, Government
25 Code, with any appropriate governmental entity to jointly employ a
26 case manager or to jointly contribute to the costs of a case manager
27 employed by one governmental entity to provide services described
28 by Subdivisions (1) and (2).

29 SECTION 5. Article 102.014(d), Code of Criminal Procedure,
30 is amended to read as follows:

31 (d) A person convicted of an offense under Section 25.093

1 ~~[or 25.094]~~, Education Code, shall pay as taxable court costs \$20 in
2 addition to other taxable court costs. The additional court costs
3 under this subsection shall be collected in the same manner that
4 other fines and taxable court costs in the case are collected.

5 SECTION 6. (a) Section 7.111(a), Education Code, as
6 amended by Chapters 339 (H.B. 2058) and 1217 (S.B. 1536), Acts of
7 the 83rd Legislature, Regular Session, 2013, is reenacted to read
8 as follows:

9 (a) The board shall provide for the administration of high
10 school equivalency examinations.

11 (b) Section 7.111(a-1), Education Code, is amended to
12 conform to the amendment of Section 7.111(a), Education Code, by
13 Chapter 1217 (S.B. 1536), Acts of the 83rd Legislature, Regular
14 Session, 2013, and is further amended to read as follows:

15 (a-1) A person who does not have a high school diploma may
16 take the examination in accordance with rules adopted by the board
17 if the person is:

18 (1) over 17 years of age;

19 (2) 16 years of age or older and:

20 (A) is enrolled in a Job Corps training program
21 under the Workforce Investment Act of 1998 (29 U.S.C. Section 2801
22 et seq.), and its subsequent amendments;

23 (B) a public agency providing supervision of the
24 person or having custody of the person under a court order
25 recommends that the person take the examination; or

26 (C) is enrolled in the Texas Military
27 Department's ~~[adjutant general's department's]~~ Seaborne Challenge
28 Corps; or

29 (3) required to take the examination under a court
30 order issued under Section 65.103(a)(3), Family Code.

31 SECTION 7. Section 25.085, Education Code, is amended by

1 amending Subsections (b), (e), and (f) and adding Subsections (g)
2 and (h) to read as follows:

3 (b) Unless specifically exempted by Section 25.086, a child
4 who is at least six years of age, or who is younger than six years of
5 age and has previously been enrolled in first grade, and who has not
6 yet reached the child's 19th [~~18th~~] birthday shall attend school.

7 (e) A person who voluntarily enrolls in school or
8 voluntarily attends school after the person's 19th [~~18th~~] birthday
9 shall attend school each school day for the entire period the
10 program of instruction is offered. A school district may revoke for
11 the remainder of the school year the enrollment of a person who has
12 more than five absences in a semester that are not excused under
13 Section 25.087, except a school district may not revoke the
14 enrollment of a person under this subsection on a day on which the
15 person is physically present at school. A person whose enrollment
16 is revoked under this subsection may be considered an unauthorized
17 person on school district grounds for purposes of Section 37.107.

18 (f) The board of trustees of a school district may adopt a
19 policy requiring a person described by Subsection (e) who is under
20 21 years of age to attend school until the end of the school year.
21 Section 65.003(a), Family Code, does not apply [~~25.094 applies~~] to
22 a person subject to a policy adopted under this subsection.
23 Sections 25.093 and 25.095 do not apply to the parent of a person
24 subject to a policy adopted under this subsection.

25 (g) After the third unexcused absence of a person described
26 by Subsection (e), a school district shall issue a warning letter to
27 the person that states the person's enrollment may be revoked for
28 the remainder of the school year if the person has more than five
29 unexcused absences in a semester.

30 (h) As an alternative to revoking a person's enrollment
31 under Subsection (e), a school district may impose a behavior

1 improvement plan described by Section 25.0915(a-1)(1).

2 SECTION 8. Sections 25.091(a) and (b), Education Code, are
3 amended to read as follows:

4 (a) A peace officer serving as an attendance officer has the
5 following powers and duties concerning enforcement of compulsory
6 school attendance requirements:

7 (1) to investigate each case of a violation of
8 compulsory school attendance requirements referred to the peace
9 officer;

10 (2) to enforce compulsory school attendance
11 requirements by:

12 (A) applying truancy prevention measures adopted
13 under Section 25.0915 to the student; and

14 (B) if the truancy prevention measures fail to
15 meaningfully address the student's conduct:

16 (i) referring the student to a truancy
17 court [~~juvenile court or filing a complaint against the student in a~~
18 ~~county, justice, or municipal court~~] if the student has unexcused
19 absences for the amount of time specified under Section 65.003(a)
20 [~~25.094 or under Section 51.03(b)(2)~~], Family Code; or

21 (ii) filing a complaint in a county,
22 justice, or municipal court against a parent who violates Section
23 25.093;

24 (3) to serve court-ordered legal process;

25 (4) to review school attendance records for compliance
26 by each student investigated by the officer;

27 (5) to maintain an investigative record on each
28 compulsory school attendance requirement violation and related
29 court action and, at the request of a court, the board of trustees
30 of a school district, or the commissioner, to provide a record to
31 the individual or entity requesting the record; and

1 (6) to make a home visit or otherwise contact the
2 parent of a student who is in violation of compulsory school
3 attendance requirements, except that a peace officer may not enter
4 a residence without the permission of the parent of a student
5 required under this subchapter to attend school or of the tenant or
6 owner of the residence except to lawfully serve court-ordered legal
7 process on the parent[~~and~~

8 [~~(7) to take a student into custody with the~~
9 ~~permission of the student's parent or in obedience to a~~
10 ~~court-ordered legal process~~].

11 (b) An attendance officer employed by a school district who
12 is not commissioned as a peace officer has the following powers and
13 duties with respect to enforcement of compulsory school attendance
14 requirements:

15 (1) to investigate each case of a violation of the
16 compulsory school attendance requirements referred to the
17 attendance officer;

18 (2) to enforce compulsory school attendance
19 requirements by:

20 (A) applying truancy prevention measures adopted
21 under Section 25.0915 to the student; and

22 (B) if the truancy prevention measures fail to
23 meaningfully address the student's conduct:

24 (i) referring the student to a truancy
25 court [~~juvenile court or filing a complaint against the student in a~~
26 ~~county, justice, or municipal court~~] if the student has unexcused
27 absences for the amount of time specified under Section 65.003(a)
28 [~~25.094 or under Section 51.03(b)(2)~~], Family Code; and

29 (ii) filing a complaint in a county,
30 justice, or municipal court against a parent who violates Section
31 25.093;

1 (3) to monitor school attendance compliance by each
2 student investigated by the officer;

3 (4) to maintain an investigative record on each
4 compulsory school attendance requirement violation and related
5 court action and, at the request of a court, the board of trustees
6 of a school district, or the commissioner, to provide a record to
7 the individual or entity requesting the record;

8 (5) to make a home visit or otherwise contact the
9 parent of a student who is in violation of compulsory school
10 attendance requirements, except that the attendance officer may not
11 enter a residence without permission of the parent or of the owner
12 or tenant of the residence; and

13 (6) at the request of a parent, to escort a student
14 from any location to a school campus to ensure the student's
15 compliance with compulsory school attendance requirements[~~, and~~

16 [~~(7) if the attendance officer has or is informed of a~~
17 ~~court-ordered legal process directing that a student be taken into~~
18 ~~custody and the school district employing the officer does not~~
19 ~~employ its own police department, to contact the sheriff,~~
20 ~~constable, or any peace officer to request that the student be taken~~
21 ~~into custody and processed according to the legal process].~~

22 SECTION 9. Section 25.0915, Education Code, is amended to
23 read as follows:

24 Sec. 25.0915. TRUANCY PREVENTION MEASURES[~~, REFERRAL AND~~
25 ~~FILING REQUIREMENT~~]. (a) A school district shall adopt truancy
26 prevention measures designed to:

27 (1) address student conduct related to truancy in the
28 school setting before the student engages in conduct described by
29 Section 65.003(a), Family Code; and

30 (2) minimize the need for referrals to truancy
31 [~~juvenile~~] court for conduct described by Section 65.003(a)

1 ~~[51.03(b)(2)]~~, Family Code[, and

2 ~~[(3) minimize the filing of complaints in county,~~
3 ~~justice, and municipal courts alleging a violation of Section~~
4 ~~25.094]~~.

5 (a-1) As a truancy prevention measure under Subsection (a),
6 a school district shall take one or more of the following actions:

7 (1) impose:

8 (A) a behavior improvement plan on the student
9 that must be signed by an employee of the school, that the school
10 district has made a good faith effort to have signed by the student
11 and the student's parent or guardian, and that includes:

12 (i) a specific description of the behavior
13 that is required or prohibited for the student;

14 (ii) the period for which the plan will be
15 effective, not to exceed 45 school days after the date the contract
16 becomes effective; or

17 (iii) the penalties for additional
18 absences, including additional disciplinary action or the referral
19 of the student to a truancy court; or

20 (B) school-based community service; or

21 (2) refer the student to counseling, mediation,
22 mentoring, a teen court program, community-based services, or other
23 in-school or out-of-school services aimed at addressing the
24 student's truancy.

25 (a-2) A referral made under Subsection (a-1)(2) may include
26 participation by the child's parent or guardian if necessary.

27 (a-3) A school district shall offer additional counseling
28 to a student and may not refer the student to truancy court if the
29 school determines that the student's truancy is the result of:

30 (1) pregnancy;

31 (2) being in the state foster program;

1 (3) homelessness; or

2 (4) being the principal income earner for the
3 student's family.

4 (a-4) If a student fails to attend school without excuse on
5 three or more days or parts of days within a four-week period but
6 does not fail to attend school for the time described by Section
7 25.0951(a), the school district shall initiate truancy prevention
8 measures under this section on the student.

9 (b) Each referral to truancy [~~juvenile~~] court for conduct
10 described by Section 65.003(a) [~~51.03(b)(2)~~], Family Code, [~~or~~
11 ~~complaint filed in county, justice, or municipal court alleging a~~
12 ~~violation by a student of Section 25.094]~~ must:

13 (1) be accompanied by a statement from the student's
14 school certifying that:

15 (A) the school applied the truancy prevention
16 measures adopted under Subsection (a) or (a-4) to the student; and

17 (B) the truancy prevention measures failed to
18 meaningfully address the student's school attendance; and

19 (2) specify whether the student is eligible for or
20 receives special education services under Subchapter A, Chapter 29.

21 (c) A truancy court shall dismiss a petition filed by a
22 truant conduct prosecutor under Section 65.054, Family Code, if the
23 court determines that the school district's referral:

24 (1) does [~~complaint or referral made by a school~~
25 ~~district under this section that is]~~ not comply [~~made in~~
26 ~~compliance]~~ with Subsection (b);

27 (2) does not satisfy the elements required for truant
28 conduct;

29 (3) is not timely filed, unless the school district
30 delayed the referral under Section 25.0951(d); or

31 (4) is otherwise substantively defective.

1 (d) Except as provided by Subsection (e), a school district
2 shall employ a truancy prevention facilitator or juvenile case
3 manager to implement the truancy prevention measures required by
4 this section and any other effective truancy prevention measures as
5 determined by the school district or campus. At least annually, the
6 truancy prevention facilitator shall meet to discuss effective
7 truancy prevention measures with a case manager or other individual
8 designated by a truancy court to provide services to students of the
9 school district in truancy cases.

10 (e) Instead of employing a truancy prevention facilitator,
11 a school district may designate an existing district employee or
12 juvenile case manager to implement the truancy prevention measures
13 required by this section and any other effective truancy prevention
14 measures as determined by the school district or campus.

15 (f) The agency shall adopt rules:

16 (1) creating minimum standards for truancy prevention
17 measures adopted by a school district under this section; and

18 (2) establishing a set of best practices for truancy
19 prevention measures.

20 (g) The agency shall adopt rules to provide for sanctions
21 for a school district found to be not in compliance with this
22 section.

23 SECTION 10. Section 25.0916, Education Code, is amended by
24 amending Subsections (a), (c), (f), (h), and (i) and adding
25 Subsection (c-1) to read as follows:

26 (a) This section applies only to a county with two or more
27 courts hearing truancy cases and two or more school districts~~[÷~~

28 ~~[(1) with a population greater than 1.5 million; and~~

29 ~~[(2) that includes at least:~~

30 ~~[(A) 15 school districts with the majority of~~
31 ~~district territory in the county; and~~

1 [~~(B)~~ one school district with a student
2 enrollment of 50,000 or more and an annual dropout rate spanning
3 grades 9-12 of at least five percent, computed in accordance with
4 standards and definitions adopted by the National Center for
5 Education Statistics of the United States Department of Education].

6 (c) Unless the county has already adopted a uniform truancy
7 policy under this section, not [~~Not~~] later than January [~~September~~]
8 1, 2016 [~~2013~~], the county judge or the county judge's designee and
9 the mayor of the municipality in the county with the greatest
10 population or the mayor's designee shall each appoint one member to
11 serve on the committee as a representative of each of the following:

12 (1) a juvenile [~~district~~] court;

13 (2) a municipal court;

14 (3) the office of a justice of the peace;

15 (4) the superintendent or designee of an independent
16 school district;

17 (5) an open-enrollment charter school, if one exists
18 in the county;

19 (6) the office of the prosecutor with original truancy
20 jurisdiction in the county [~~district attorney~~]; and

21 (7) the general public.

22 (c-1) In addition to the members listed in Subsection (c),
23 the chief juvenile probation officer or the officer's designee
24 serves on the committee. The county judge or the county judge's
25 designee and the mayor of the municipality in the county with the
26 greatest population or the mayor's designee may make additional
27 appointments as needed.

28 (f) Unless a county has already adopted a uniform truancy
29 policy under this section, not [~~Not~~] later than May [~~September~~] 1,
30 2016 [~~2014~~], the committee shall recommend:

31 (1) a uniform process for filing truancy cases with

1 truancy courts [~~the judicial system~~];

2 (2) uniform administrative procedures;

3 (3) uniform deadlines for processing truancy cases;

4 (4) a local plan with strategies to address truancy,
5 including effective prevention, intervention, and diversion
6 methods to reduce truancy and referrals to a truancy [~~county,~~
7 ~~justice, or municipal~~] court;

8 (5) a system for tracking truancy information and
9 sharing truancy information among school districts, [~~and~~]
10 open-enrollment charter schools, truancy courts, juvenile courts,
11 and juvenile probation departments in the county; and

12 (6) any changes to statutes or state agency rules the
13 committee determines are necessary to address truancy.

14 (h) The committee's presiding officer shall issue a report
15 not later than December 1, 2017 [~~2015~~], to the county judge and
16 mayor of the municipality with the greatest population in the
17 county on the implementation of the recommendations and compliance
18 with state truancy laws by a school district located in the county.

19 (i) This section expires January 1, 2018 [~~2016~~].

20 SECTION 11. Section 25.093, Education Code, is amended by
21 amending Subsections (a) and (c) and adding Subsection (c-1) to
22 read as follows:

23 (a) If a warning is issued as required by Section 25.095(a),
24 the parent with criminal negligence fails to require the child to
25 attend school as required by law, and the child has absences for the
26 amount of time specified under Section 65.003(a), Family Code
27 [~~25.094~~], the parent commits an offense.

28 (c) An offense under Subsection (a) is a [~~Class C~~]
29 misdemeanor, punishable by fine only, in an amount not to exceed:

30 (1) \$100 for a first offense;

31 (2) \$200 for a second offense;

1 (3) \$300 for a third offense;

2 (4) \$400 for a fourth offense; or

3 (5) \$500 for a fifth or subsequent offense.

4 (c-1) Each day the child remains out of school may
5 constitute a separate offense. Two or more offenses under
6 Subsection (a) may be consolidated and prosecuted in a single
7 action. If the court orders deferred disposition under Article
8 45.051, Code of Criminal Procedure, the court may require the
9 defendant to provide personal services to a charitable or
10 educational institution as a condition of the deferral.

11 SECTION 12. Sections 25.095(a), (b), and (c), Education
12 Code, are amended to read as follows:

13 (a) A school district or open-enrollment charter school
14 shall notify a student's parent in writing at the beginning of the
15 school year that if the student is absent from school on 10 or more
16 days or parts of days within a six-month period in the same school
17 year [~~or on three or more days or parts of days within a four-week~~
18 ~~period~~]:

19 (1) the student's parent is subject to prosecution
20 under Section 25.093; and

21 (2) the student is subject to [~~prosecution under~~
22 ~~Section 25.094 or to~~] referral to a truancy [~~juvenile~~] court [~~in a~~
23 ~~county with a population of less than 100,000~~] for truant conduct
24 under Section 65.003(a), Family Code [~~that violates that section~~].

25 (b) A school district shall notify a student's parent if the
26 student has been absent from school, without excuse under Section
27 25.087, on three days or parts of days within a four-week period.
28 The notice must:

29 (1) inform the parent that:

30 (A) it is the parent's duty to monitor the
31 student's school attendance and require the student to attend

1 school; and

2 (B) the student [~~parent~~] is subject to truancy
3 prevention measures [~~prosecution~~] under Section 25.0915 [~~25.093~~];
4 and

5 (2) request a conference between school officials and
6 the parent to discuss the absences.

7 (c) The fact that a parent did not receive a notice under
8 Subsection (a) or (b) does not create a defense [~~to prosecution~~]
9 under Section 25.093 or under Section 65.003(a), Family Code
10 [~~25.094~~].

11 SECTION 13. Section 25.0951, Education Code, is amended to
12 read as follows:

13 Sec. 25.0951. SCHOOL DISTRICT COMPLAINT OR REFERRAL FOR
14 FAILURE TO ATTEND SCHOOL. (a) If a student fails to attend school
15 without excuse on 10 or more days or parts of days within a
16 six-month period in the same school year, a school district shall
17 within 10 school days of the student's 10th absence[+

18 [~~(1) file a complaint against the student or the~~
19 ~~student's parent or both in a county, justice, or municipal court~~
20 ~~for an offense under Section 25.093 or 25.094, as appropriate, or~~
21 ~~refer the student to a juvenile court in a county with a population~~
22 ~~of less than 100,000 for conduct that violates Section 25.094, or~~

23 [(2)] refer the student to a truancy [~~juvenile~~] court
24 for truant conduct [~~indicating a need for supervision~~] under
25 Section 65.003(a) [~~51.03(b)(2)~~], Family Code.

26 (b) If a student fails to attend school without excuse as
27 specified by Subsection (a), a school district may file a complaint
28 against the student's parent in a county, justice, or municipal
29 court for an offense under Section 25.093 if the school district
30 provides evidence of the parent's criminal negligence [~~If a student~~
31 ~~fails to attend school without excuse on three or more days or parts~~

~~of days within a four-week period but does not fail to attend school for the time described by Subsection (a), the school district may:~~

~~[(1) file a complaint against the student or the student's parent or both in a county, justice, or municipal court for an offense under Section 25.093 or 25.094, as appropriate, or refer the student to a juvenile court in a county with a population of less than 100,000 for conduct that violates Section 25.094, or~~

~~[(2) refer the student to a juvenile court for conduct indicating a need for supervision under Section 51.03(b)(2), Family Code].~~

~~[(c)]~~ In this subsection ~~[section]~~, "parent" includes a person standing in parental relation.

(c) ~~[(d)]~~ A court shall dismiss a complaint ~~[or referral]~~ made by a school district under Subsection (b) ~~[under this section]~~ that:

(1) does [is] not comply [made in compliance] with this section;

(2) does not allege the elements required for the offense;

(3) is not timely filed, unless the school district delayed the referral under Subsection (d); or

(4) is otherwise substantively defective.

(d) Notwithstanding Subsection (a), a school district may delay a referral of a student for truant conduct, or may choose to not refer a student for truant conduct, if the school district:

(1) is applying truancy prevention measures to the student under Section 25.0915; and

(2) determines that the truancy prevention measures are succeeding and it is in the best interest of the student that a referral be delayed or not be made.

SECTION 14. Section 25.0952, Education Code, is amended to

1 read as follows:

2 Sec. 25.0952. PROCEDURES APPLICABLE TO PARENT CONTRIBUTING
3 TO NONATTENDANCE OFFENSE [~~SCHOOL ATTENDANCE-RELATED OFFENSES~~]. In
4 a proceeding based on a complaint under Section 25.093 [~~or 25.094~~],
5 the court shall, except as otherwise provided by this chapter, use
6 the procedures and exercise the powers authorized by Chapter 45,
7 Code of Criminal Procedure.

8 SECTION 15. Section 29.087(d), Education Code, is amended
9 to read as follows:

10 (d) A student is eligible to participate in a program
11 authorized by this section if:

12 (1) the student has been ordered by a court under
13 Section 65.103, Family Code [~~Article 45.054, Code of Criminal~~
14 ~~Procedure, as added by Chapter 1514, Acts of the 77th Legislature,~~
15 ~~Regular Session, 2001~~], or by the Texas Juvenile Justice Department
16 [~~Youth Commission~~] to:

17 (A) participate in a preparatory class for the
18 high school equivalency examination; or

19 (B) take the high school equivalency examination
20 administered under Section 7.111; or

21 (2) the following conditions are satisfied:

22 (A) the student is at least 16 years of age at the
23 beginning of the school year or semester;

24 (B) the student is a student at risk of dropping
25 out of school, as defined by Section 29.081;

26 (C) the student and the student's parent or
27 guardian agree in writing to the student's participation;

28 (D) at least two school years have elapsed since
29 the student first enrolled in ninth grade and the student has
30 accumulated less than one third of the credits required to graduate
31 under the minimum graduation requirements of the district or

1 school; and

2 (E) any other conditions specified by the
3 commissioner.

4 SECTION 16. Section 33.051(2), Education Code, is amended
5 to read as follows:

6 (2) "Missing child" means a child whose whereabouts
7 are unknown to the legal custodian of the child and:

8 (A) the circumstances of whose absence indicate
9 that the child did not voluntarily leave the care and control of the
10 custodian and that the taking of the child was not authorized by
11 law; or

12 (B) the child has engaged in conduct indicating a
13 need for supervision under Section 51.03(b)(2) [~~51.03(b)(3)~~],
14 Family Code.

15 SECTION 17. Section 51.02(15), Family Code, is amended to
16 read as follows:

17 (15) "Status offender" means a child who is accused,
18 adjudicated, or convicted for conduct that would not, under state
19 law, be a crime if committed by an adult, including:

20 (A) [~~truancy under Section 51.03(b)(2)~~],
21 [~~(B)~~] running away from home under Section
22 51.03(b)(2) [~~51.03(b)(3)~~];

23 (B) [~~(C)~~] a fineable only offense under Section
24 51.03(b)(1) transferred to the juvenile court under Section
25 51.08(b), but only if the conduct constituting the offense would
26 not have been criminal if engaged in by an adult;

27 [~~(D) failure to attend school under Section~~
28 ~~25.094, Education Code~~];

29 (C) [~~(E)~~] a violation of standards of student
30 conduct as described by Section 51.03(b)(4) [~~51.03(b)(5)~~];

31 (D) [~~(F)~~] a violation of a juvenile curfew

1 ordinance or order;

2 (E) [~~(G)~~] a violation of a provision of the
3 Alcoholic Beverage Code applicable to minors only; or

4 (F) [~~(H)~~] a violation of any other fineable only
5 offense under Section 8.07(a)(4) or (5), Penal Code, but only if the
6 conduct constituting the offense would not have been criminal if
7 engaged in by an adult.

8 SECTION 18. Sections 51.03(a), (b), (e), and (f), Family
9 Code, are amended to read as follows:

10 (a) Delinquent conduct is:

11 (1) conduct, other than a traffic offense, that
12 violates a penal law of this state or of the United States
13 punishable by imprisonment or by confinement in jail;

14 (2) conduct that violates a lawful order of a court
15 under circumstances that would constitute contempt of that court
16 in:

17 (A) a justice or municipal court; [~~or~~]

18 (B) a county court for conduct punishable only by
19 a fine; or

20 (C) a truancy court;

21 (3) conduct that violates Section 49.04, 49.05, 49.06,
22 49.07, or 49.08, Penal Code; or

23 (4) conduct that violates Section 106.041, Alcoholic
24 Beverage Code, relating to driving under the influence of alcohol
25 by a minor (third or subsequent offense).

26 (b) Conduct indicating a need for supervision is:

27 (1) subject to Subsection (f), conduct, other than a
28 traffic offense, that violates:

29 (A) the penal laws of this state of the grade of
30 misdemeanor that are punishable by fine only; or

31 (B) the penal ordinances of any political

1 subdivision of this state;

2 (2) ~~[the absence of a child on 10 or more days or parts~~
3 ~~of days within a six-month period in the same school year or on~~
4 ~~three or more days or parts of days within a four-week period from~~
5 ~~school;~~

6 ~~[(3)]~~ the voluntary absence of a child from the child's
7 home without the consent of the child's parent or guardian for a
8 substantial length of time or without intent to return;

9 (3) ~~[(4)]~~ conduct prohibited by city ordinance or by
10 state law involving the inhalation of the fumes or vapors of paint
11 and other protective coatings or glue and other adhesives and the
12 volatile chemicals itemized in Section 485.001, Health and Safety
13 Code;

14 (4) ~~[(5)]~~ an act that violates a school district's
15 previously communicated written standards of student conduct for
16 which the child has been expelled under Section 37.007(c),
17 Education Code;

18 (5) ~~[(6)]~~ conduct that violates a reasonable and
19 lawful order of a court entered under Section 264.305;

20 (6) ~~[(7)]~~ notwithstanding Subsection (a)(1), conduct
21 described by Section 43.02(a)(1) or (2), Penal Code; or

22 (7) ~~[(8)]~~ notwithstanding Subsection (a)(1), conduct
23 that violates Section 43.261, Penal Code.

24 (e) For the purposes of Subsection (b)(2) ~~[(b)(3)]~~, "child"
25 does not include a person who is married, divorced, or widowed.

26 (f) Conduct ~~[Except as provided by Subsection (g), conduct]~~
27 described under Subsection (b)(1) does not constitute conduct
28 indicating a need for supervision unless the child has been
29 referred to the juvenile court under Section 51.08(b).

30 SECTION 19. Section 51.13(e), Family Code, is amended to
31 read as follows:

1 (e) A finding that a child engaged in conduct indicating a
2 need for supervision as described by Section 51.03(b)(7)
3 ~~[51.03(b)(8)]~~ is a conviction only for the purposes of Sections
4 43.261(c) and (d), Penal Code.

5 SECTION 20. Section 54.0404(a), Family Code, is amended to
6 read as follows:

7 (a) If a child is found to have engaged in conduct
8 indicating a need for supervision described by Section 51.03(b)(7)
9 ~~[51.03(b)(8)]~~, the juvenile court may enter an order requiring the
10 child to attend and successfully complete an educational program
11 described by Section 37.218, Education Code, or another equivalent
12 educational program.

13 SECTION 21. Section 54.05(b), Family Code, is amended to
14 read as follows:

15 (b) Except for a commitment to the Texas Juvenile Justice
16 Department or to a post-adjudication secure correctional facility
17 under Section 54.04011~~[, a disposition under Section 54.0402,]~~ or a
18 placement on determinate sentence probation under Section
19 54.04(q), all dispositions automatically terminate when the child
20 reaches the child's 18th birthday.

21 SECTION 22. Section 58.0022, Family Code, is amended to
22 read as follows:

23 Sec. 58.0022. FINGERPRINTS OR PHOTOGRAPHS TO IDENTIFY
24 RUNAWAYS. A law enforcement officer who takes a child into custody
25 with probable cause to believe that the child has engaged in conduct
26 indicating a need for supervision as described by Section
27 51.03(b)(2) ~~[51.03(b)(3)]~~ and who after reasonable effort is unable
28 to determine the identity of the child, may fingerprint or
29 photograph the child to establish the child's identity. On
30 determination of the child's identity or that the child cannot be
31 identified by the fingerprints or photographs, the law enforcement

1 officer shall immediately destroy all copies of the fingerprint
2 records or photographs of the child.

3 SECTION 23. Section 58.003(c-3), Family Code, is amended to
4 read as follows:

5 (c-3) Notwithstanding Subsections (a) and (c) and subject
6 to Subsection (b), a juvenile court, on the court's own motion and
7 without a hearing, shall order the sealing of records concerning a
8 child found to have engaged in conduct indicating a need for
9 supervision described by Section 51.03(b)(6) [~~51.03(b)(7)~~] or
10 taken into custody to determine whether the child engaged in
11 conduct indicating a need for supervision described by Section
12 51.03(b)(6) [~~51.03(b)(7)~~]. This subsection applies only to
13 records related to conduct indicating a need for supervision
14 described by Section 51.03(b)(6) [~~51.03(b)(7)~~].

15 SECTION 24. Section 58.106(a), Family Code, is amended to
16 read as follows:

17 (a) Except as otherwise provided by this section,
18 information contained in the juvenile justice information system is
19 confidential information for the use of the department and may not
20 be disseminated by the department except:

21 (1) with the permission of the juvenile offender, to
22 military personnel of this state or the United States;

23 (2) to a person or entity to which the department may
24 grant access to adult criminal history records as provided by
25 Section 411.083, Government Code;

26 (3) to a juvenile justice agency;

27 (4) to the Texas Juvenile Justice Department [~~Youth~~
28 ~~Commission and the Texas Juvenile Probation Commission~~] for
29 analytical purposes;

30 (5) to the office of independent ombudsman of the
31 Texas Juvenile Justice Department [~~Youth Commission~~]; and

1 (6) to a county, justice, or municipal court
2 exercising jurisdiction over a juvenile[, ~~including a court~~
3 ~~exercising jurisdiction over a juvenile under Section 54.021~~].

4 SECTION 25. Section 59.003(a), Family Code, is amended to
5 read as follows:

6 (a) Subject to Subsection (e), after a child's first
7 commission of delinquent conduct or conduct indicating a need for
8 supervision, the probation department or prosecuting attorney may,
9 or the juvenile court may, in a disposition hearing under Section
10 54.04 or a modification hearing under Section 54.05, assign a child
11 one of the following sanction levels according to the child's
12 conduct:

13 (1) for conduct indicating a need for supervision,
14 other than conduct described in Section 51.03(b)(3) or (4)
15 [~~51.03(b)(4) or (5)~~] or a Class A or B misdemeanor, the sanction
16 level is one;

17 (2) for conduct indicating a need for supervision
18 under Section 51.03(b)(3) or (4) [~~51.03(b)(4) or (5)~~] or a Class A
19 or B misdemeanor, other than a misdemeanor involving the use or
20 possession of a firearm, or for delinquent conduct under Section
21 51.03(a)(2), the sanction level is two;

22 (3) for a misdemeanor involving the use or possession
23 of a firearm or for a state jail felony or a felony of the third
24 degree, the sanction level is three;

25 (4) for a felony of the second degree, the sanction
26 level is four;

27 (5) for a felony of the first degree, other than a
28 felony involving the use of a deadly weapon or causing serious
29 bodily injury, the sanction level is five;

30 (6) for a felony of the first degree involving the use
31 of a deadly weapon or causing serious bodily injury, for an

1 aggravated controlled substance felony, or for a capital felony,
2 the sanction level is six; or

3 (7) for a felony of the first degree involving the use
4 of a deadly weapon or causing serious bodily injury, for an
5 aggravated controlled substance felony, or for a capital felony, if
6 the petition has been approved by a grand jury under Section 53.045,
7 or if a petition to transfer the child to criminal court has been
8 filed under Section 54.02, the sanction level is seven.

9 SECTION 26. Section 61.002(a), Family Code, is amended to
10 read as follows:

11 (a) Except as provided by Subsection (b), this chapter
12 applies to a proceeding to enter a juvenile court order:

13 (1) for payment of probation fees under Section
14 54.061;

15 (2) for restitution under Sections 54.041(b) and
16 54.048;

17 (3) for payment of graffiti eradication fees under
18 Section 54.0461;

19 (4) for community service under Section 54.044(b);

20 (5) for payment of costs of court under Section
21 54.0411 or other provisions of law;

22 (6) requiring the person to refrain from doing any act
23 injurious to the welfare of the child under Section 54.041(a)(1);

24 (7) enjoining contact between the person and the child
25 who is the subject of a proceeding under Section 54.041(a)(2);

26 (8) ordering a person living in the same household
27 with the child to participate in counseling under Section
28 54.041(a)(3);

29 (9) ~~[requiring a parent or guardian of a child found to~~
30 ~~be truant to participate in an available program addressing truancy~~
31 ~~under Section 54.041(f),~~

1 ~~[(10)]~~ requiring a parent or other eligible person to
2 pay reasonable attorney's fees for representing the child under
3 Section 51.10(e);

4 (10) ~~[(11)]~~ requiring the parent or other eligible
5 person to reimburse the county for payments the county has made to
6 an attorney appointed to represent the child under Section
7 51.10(j);

8 (11) ~~[(12)]~~ requiring payment of deferred prosecution
9 supervision fees under Section 53.03(d);

10 (12) ~~[(13)]~~ requiring a parent or other eligible
11 person to attend a court hearing under Section 51.115;

12 (13) ~~[(14)]~~ requiring a parent or other eligible
13 person to act or refrain from acting to aid the child in complying
14 with conditions of release from detention under Section 54.01(r);

15 (14) ~~[(15)]~~ requiring a parent or other eligible
16 person to act or refrain from acting under any law imposing an
17 obligation of action or omission on a parent or other eligible
18 person because of the parent's or person's relation to the child who
19 is the subject of a proceeding under this title;

20 (15) ~~[(16)]~~ for payment of fees under Section 54.0462;
21 or

22 (16) ~~[(17)]~~ for payment of the cost of attending an
23 educational program under Section 54.0404.

24 SECTION 27. The Family Code is amended by adding Title 3A to
25 read as follows:

26 TITLE 3A. TRUANCY COURT PROCEEDINGS

27 CHAPTER 65. TRUANCY COURT PROCEEDINGS

28 SUBCHAPTER A. GENERAL PROVISIONS

29 Sec. 65.001. SCOPE AND PURPOSE. (a) This chapter details
30 the procedures and proceedings in cases involving allegations of
31 truant conduct.

1 (b) The purpose of this chapter is to encourage school
2 attendance by creating simple civil judicial procedures through
3 which children are held accountable for excessive school absences.

4 (c) The best interest of the child is the primary
5 consideration in adjudicating truant conduct of the child.

6 Sec. 65.002. DEFINITIONS. In this chapter:

7 (1) "Child" means a person who is 12 years of age or
8 older and younger than 19 years of age.

9 (2) "Juvenile court" means a court designated under
10 Section 51.04 to exercise jurisdiction over proceedings under Title
11 3.

12 (3) "Qualified telephone interpreter" means a
13 telephone service that employs licensed court interpreters, as
14 defined by Section 157.001, Government Code.

15 (4) "Truancy court" means a court designated under
16 Section 65.004 to exercise jurisdiction over cases involving
17 allegations of truant conduct.

18 Sec. 65.003. TRUANT CONDUCT. (a) A child engages in
19 truant conduct if the child is required to attend school under
20 Section 25.085, Education Code, and fails to attend school on 10 or
21 more days or parts of days within a six-month period in the same
22 school year.

23 (b) Truant conduct may be prosecuted only as a civil case in
24 a truancy court.

25 (c) It is an affirmative defense to an allegation of truant
26 conduct that one or more of the absences required to be proven have
27 been excused by a school official or by the court or that one or more
28 of the absences were involuntary, but only if there is an
29 insufficient number of unexcused or voluntary absences remaining to
30 constitute truant conduct. The burden is on the child to show by a
31 preponderance of the evidence that the absence has been or should be

1 excused or that the absence was involuntary. A decision by the
2 court to excuse an absence for purposes of this subsection does not
3 affect the ability of the school district to determine whether to
4 excuse the absence for another purpose.

5 Sec. 65.004. TRUANCY COURTS; JURISDICTION. (a) The
6 following are designated as truancy courts:

7 (1) in a county with a population of 1.75 million or
8 more, the constitutional county court;

9 (2) justice courts; and

10 (3) municipal courts.

11 (b) A truancy court has exclusive original jurisdiction
12 over cases involving allegations of truant conduct.

13 (c) A municipality may enter into an agreement with a
14 contiguous municipality or a municipality with boundaries that are
15 within one-half mile of the municipality seeking to enter into the
16 agreement to establish concurrent jurisdiction of the municipal
17 courts in the municipalities and provide original jurisdiction to a
18 municipal court in which a truancy case is brought as if the
19 municipal court were located in the municipality in which the case
20 arose.

21 (d) A truancy court retains jurisdiction over a person,
22 without regard to the age of the person, who was referred to the
23 court under Section 65.051 for engaging in truant conduct before
24 the person's 19th birthday, until final disposition of the case.

25 Sec. 65.005. COURT SESSIONS. A truancy court is considered
26 to be in session at all times.

27 Sec. 65.006. VENUE. Venue for a proceeding under this
28 chapter is the county in which the school in which the child is
29 enrolled is located or the county in which the child resides.

30 Sec. 65.007. RIGHT TO JURY TRIAL. (a) A child alleged to
31 have engaged in truant conduct is entitled to a jury trial.

1 (b) The number of jurors in a case involving an allegation
2 of truant conduct is six. The state and the child are each entitled
3 to three peremptory challenges.

4 (c) There is no jury fee for a trial under this chapter.

5 Sec. 65.008. WAIVER OF RIGHTS. A right granted to a child
6 by this chapter or by the constitution or laws of this state or the
7 United States is waived in proceedings under this chapter if:

8 (1) the right is one that may be waived;

9 (2) the child and the child's parent or guardian are
10 informed of the right, understand the right, understand the
11 possible consequences of waiving the right, and understand that
12 waiver of the right is not required;

13 (3) the child signs the waiver;

14 (4) the child's parent or guardian signs the waiver;

15 and

16 (5) the child's attorney signs the waiver, if the child
17 is represented by counsel.

18 Sec. 65.009. EFFECT OF ADJUDICATION. (a) An adjudication
19 of a child as having engaged in truant conduct is not a conviction
20 of crime. An order of adjudication does not impose any civil
21 disability ordinarily resulting from a conviction or operate to
22 disqualify the child in any civil service application or
23 appointment.

24 (b) The adjudication of a child as having engaged in truant
25 conduct may not be used in any subsequent court proceedings, other
26 than for the purposes of determining an appropriate remedial action
27 under this chapter or in an appeal under this chapter.

28 Sec. 65.010. BURDEN OF PROOF. A court or jury may not
29 return a finding that a child has engaged in truant conduct unless
30 the state has proved the conduct beyond a reasonable doubt.

31 Sec. 65.011. APPLICABLE STATUTES REGARDING DISCOVERY.

1 Discovery in a proceeding under this chapter is governed by Chapter
2 39, Code of Criminal Procedure, other than Articles 39.14(i) and
3 (j).

4 Sec. 65.012. PROCEDURAL RULES. The supreme court may
5 promulgate rules of procedure applicable to proceedings under this
6 chapter, including guidelines applicable to the informal
7 disposition of truancy cases.

8 Sec. 65.013. INTERPRETERS. (a) When on the motion for
9 appointment of an interpreter by a party or on the motion of the
10 court, in any proceeding under this chapter, the court determines
11 that the child, the child's parent or guardian, or a witness does
12 not understand and speak English, an interpreter must be sworn to
13 interpret for the person. Articles 38.30(a), (b), and (c), Code of
14 Criminal Procedure, apply in a proceeding under this chapter. A
15 qualified telephone interpreter may be sworn to provide
16 interpretation services if an interpreter is not available to
17 appear in person before the court.

18 (b) In any proceeding under this chapter, if a party
19 notifies the court that the child, the child's parent or guardian,
20 or a witness is deaf, the court shall appoint a qualified
21 interpreter to interpret the proceedings in any language, including
22 sign language, that the deaf person can understand. Articles
23 38.31(d), (e), (f), and (g), Code of Criminal Procedure, apply in a
24 proceeding under this chapter.

25 Sec. 65.014. SIGNATURES. Any requirement under this
26 chapter that a document be signed or that a document contain a
27 person's signature, including the signature of a judge or a clerk of
28 the court, is satisfied if the document contains the signature of
29 the person as captured on an electronic device or as a digital
30 signature.

31 Sec. 65.015. PUBLIC ACCESS TO COURT HEARINGS. (a) Except

1 as provided by Subsection (b), a truancy court shall open a hearing
2 under this chapter to the public unless the court, for good cause
3 shown, determines that the public should be excluded.

4 (b) The court may prohibit a person from personally
5 attending a hearing if the person is expected to testify at the
6 hearing and the court determines that the person's testimony would
7 be materially affected if the person hears other testimony at the
8 hearing.

9 Sec. 65.016. RECORDING OF PROCEEDINGS. (a) The
10 proceedings in a truancy court that is not a court of record may not
11 be recorded.

12 (b) The proceedings in a truancy court that is a court of
13 record must be recorded by stenographic notes or by electronic,
14 mechanical, or other appropriate means.

15 Sec. 65.017. JUVENILE CASE MANAGERS. A truancy court may
16 employ a juvenile case manager in accordance with Article 45.056,
17 Code of Criminal Procedure, to provide services to children who
18 have been referred to the truancy court or who are in jeopardy of
19 being referred to the truancy court.

20 SUBCHAPTER B. INITIAL PROCEDURES

21 Sec. 65.051. INITIAL REFERRAL TO TRUANCY COURT. When a
22 truancy court receives a referral under Section 25.0915, Education
23 Code, and the court is not required to dismiss the referral under
24 that section, the court shall forward the referral to a truant
25 conduct prosecutor who serves the court.

26 Sec. 65.052. TRUANT CONDUCT PROSECUTOR. In a justice or
27 municipal court or a constitutional county court that is designated
28 as a truancy court, the attorney who represents the state in
29 criminal matters in that court shall serve as the truant conduct
30 prosecutor.

31 Sec. 65.053. REVIEW BY PROSECUTOR. (a) The truant conduct

1 prosecutor shall promptly review the facts described in a referral
2 received under Section 65.051.

3 (b) The prosecutor may, in the prosecutor's discretion,
4 determine whether to file a petition with the truancy court
5 requesting an adjudication of the child for truant conduct. If the
6 prosecutor decides not to file a petition requesting an
7 adjudication, the prosecutor shall inform the truancy court and the
8 school district of the decision.

9 (c) The prosecutor may not file a petition for an
10 adjudication of a child for truant conduct if the referral was not
11 made in compliance with Section 25.0915, Education Code.

12 Sec. 65.054. STATE'S PETITION. (a) A petition for an
13 adjudication of a child for truant conduct initiates an action of
14 the state against a child who has allegedly engaged in truant
15 conduct.

16 (b) The proceedings shall be styled "In the matter of
17 _____, Child," identifying the child by the child's
18 initials only.

19 (c) The petition may be on information and belief.

20 (d) The petition must state:

21 (1) with reasonable particularity the time, place, and
22 manner of the acts alleged to constitute truant conduct;

23 (2) the name, age, and residence address, if known, of
24 the child who is the subject of the petition;

25 (3) the names and residence addresses, if known, of at
26 least one parent, guardian, or custodian of the child and of the
27 child's spouse, if any; and

28 (4) if the child's parent, guardian, or custodian does
29 not reside or cannot be found in the state, or if their places of
30 residence are unknown, the name and residence address of any known
31 adult relative residing in the county or, if there is none, the name

1 and residence address of the known adult relative residing nearest
2 to the location of the court.

3 (e) Filing fees may not be charged for the filing of the
4 state's petition.

5 Sec. 65.055. LIMITATIONS PERIOD. A petition may not be
6 filed after the 45th day after the date of the last absence giving
7 rise to the act of truant conduct.

8 Sec. 65.056. HEARING DATE. (a) After the petition has
9 been filed, the truancy court shall set a date and time for an
10 adjudication hearing.

11 (b) The hearing may not be held on or before the 10th day
12 after the date the petition is filed.

13 Sec. 65.057. SUMMONS. (a) After setting the date and time
14 of an adjudication hearing, the truancy court shall direct the
15 issuance of a summons to:

- 16 (1) the child named in the petition;
17 (2) the child's parent, guardian, or custodian;
18 (3) the child's guardian ad litem, if any; and
19 (4) any other person who appears to the court to be a
20 proper or necessary party to the proceeding.

21 (b) The summons must require the persons served to appear
22 before the court at the place, date, and time of the adjudication
23 hearing to answer the allegations of the petition. A copy of the
24 petition must accompany the summons. If a person, other than the
25 child, required to appear under this section fails to attend a
26 hearing, the truancy court may proceed with the hearing.

27 (c) The truancy court may endorse on the summons an order
28 directing the person having the physical custody or control of the
29 child to bring the child to the hearing.

30 (d) A party, other than the child, may waive service of
31 summons by written stipulation or by voluntary appearance at the

1 hearing.

2 Sec. 65.058. SERVICE OF SUMMONS. (a) If a person to be
3 served with a summons is in this state and can be found, the summons
4 shall be served on the person personally or by registered or
5 certified mail, return receipt requested, at least five days before
6 the date of the adjudication hearing.

7 (b) Service of the summons may be made by any suitable
8 person under the direction of the court.

9 Sec. 65.059. REPRESENTATION BY ATTORNEY. (a) A child may be
10 represented by an attorney in a case under this chapter.
11 Representation by an attorney is not required.

12 (b) A child is not entitled to have an attorney appointed to
13 represent the child, but the court may appoint an attorney if the
14 court determines it is in the best interest of the child.

15 (c) The court may order a child's parent or other
16 responsible person to pay for the cost of an attorney appointed
17 under this section if the court determines that the person has
18 sufficient financial resources.

19 Sec. 65.060. CHILD'S ANSWER. After the petition has been
20 filed, the child may answer, orally or in writing, the petition at
21 or before the commencement of the hearing. If the child does not
22 answer, a general denial of the alleged truant conduct is assumed.

23 Sec. 65.061. GUARDIAN AD LITEM. (a) If a child appears
24 before the truancy court without a parent or guardian, or it appears
25 to the court that the child's parent or guardian is incapable or
26 unwilling to make decisions in the best interest of the child with
27 respect to proceedings under this chapter, the court may appoint a
28 guardian ad litem to protect the interests of the child in the
29 proceedings.

30 (b) An attorney for a child may also be the child's guardian
31 ad litem. A law enforcement officer, probation officer, or other

1 employee of the truancy court may not be appointed as a guardian ad
2 litem.

3 (c) The court may order a child's parent or other person
4 responsible to support the child to reimburse the county or
5 municipality for the cost of the guardian ad litem. The court may
6 issue the order only after determining that the parent or other
7 responsible person has sufficient financial resources to offset the
8 cost of the child's guardian ad litem wholly or partly.

9 Sec. 65.062. ATTENDANCE AT HEARING. (a) The child must be
10 personally present at the adjudication hearing. The truancy court
11 may not proceed with the adjudication hearing in the absence of the
12 child.

13 (b) A parent or guardian of a child and any court-appointed
14 guardian ad litem of a child is required to attend the adjudication
15 hearing.

16 (c) Subsection (b) does not apply to:

17 (1) a person for whom, for good cause shown, the court
18 excuses attendance;

19 (2) a person who is not a resident of this state; or

20 (3) a parent of a child for whom a managing conservator
21 has been appointed and the parent is not a conservator of the child.

22 Sec. 65.063. RIGHT TO REEMPLOYMENT. (a) An employer may
23 not terminate the employment of a permanent employee because the
24 employee is required under Section 65.062(b) to attend a hearing.

25 (b) Notwithstanding any other law, an employee whose
26 employment is terminated in violation of this section is entitled
27 to return to the same employment that the employee held when
28 notified of the hearing if the employee, as soon as practical after
29 the hearing, gives the employer actual notice that the employee
30 intends to return.

31 (c) A person who is injured because of a violation of this

1 section is entitled to:

2 (1) reinstatement to the person's former position;

3 (2) damages not to exceed an amount equal to six times
4 the amount of monthly compensation received by the person on the
5 date of the hearing; and

6 (3) reasonable attorney's fees in an amount approved
7 by the court.

8 (d) It is a defense to an action brought under this section
9 that the employer's circumstances changed while the employee
10 attended the hearing and caused reemployment to be impossible or
11 unreasonable. To establish a defense under this subsection, an
12 employer must prove that the termination of employment was because
13 of circumstances other than the employee's attendance at the
14 hearing.

15 Sec. 65.064. SUBPOENA OF WITNESS. A witness may be
16 subpoenaed in accordance with the procedures for the subpoena of a
17 witness under the Code of Criminal Procedure.

18 Sec. 65.065. CHILD ALLEGED TO BE MENTALLY ILL. (a) A party
19 may make a motion requesting that a petition alleging a child to
20 have engaged in truant conduct be dismissed because the child has a
21 mental illness, as defined by Section 571.003, Health and Safety
22 Code. In response to the motion, the truancy court shall
23 temporarily stay the proceedings to determine whether probable
24 cause exists to believe the child has a mental illness. In making a
25 determination, the court may:

26 (1) consider the motion, supporting documents,
27 professional statements of counsel, and witness testimony; and

28 (2) observe the child.

29 (b) If the court determines that probable cause exists to
30 believe that the child has a mental illness, the court shall dismiss
31 the petition. If the court determines that evidence does not exist

1 to support a finding that the child has a mental illness, the court
2 shall dissolve the stay and continue with the truancy court
3 proceedings.

4 SUBCHAPTER C. ADJUDICATION HEARING AND REMEDIES

5 Sec. 65.101. ADJUDICATION HEARING; JUDGMENT. (a) A child
6 may be found to have engaged in truant conduct only after an
7 adjudication hearing conducted in accordance with the provisions of
8 this chapter.

9 (b) At the beginning of the adjudication hearing, the judge
10 of the truancy court shall explain to the child and the child's
11 parent, guardian, or guardian ad litem:

12 (1) the allegations made against the child;

13 (2) the nature and possible consequences of the
14 proceedings;

15 (3) the child's privilege against self-incrimination;

16 (4) the child's right to trial and to confrontation of
17 witnesses;

18 (5) the child's right to representation by an attorney
19 if the child is not already represented; and

20 (6) the child's right to a jury trial.

21 (c) Trial is by jury unless jury is waived in accordance
22 with Section 65.008. Jury verdicts under this chapter must be
23 unanimous.

24 (d) The Texas Rules of Evidence do not apply in a truancy
25 proceeding under this chapter except:

26 (1) when the judge hearing the case determines that a
27 particular rule of evidence applicable to criminal cases must be
28 followed to ensure that the proceedings are fair to all parties; or

29 (2) as otherwise provided by this chapter.

30 (e) A child alleged to have engaged in truant conduct need
31 not be a witness against nor otherwise incriminate himself or

1 herself. An extrajudicial statement of the child that was obtained
2 in violation of the constitution of this state or the United States
3 may not be used in an adjudication hearing. A statement made by the
4 child out of court is insufficient to support a finding of truant
5 conduct unless it is corroborated wholly or partly by other
6 evidence.

7 (f) At the conclusion of the adjudication hearing, the court
8 or jury shall find whether the child has engaged in truant conduct.
9 The finding must be based on competent evidence admitted at the
10 hearing. The child shall be presumed to have not engaged in truant
11 conduct and no finding that a child has engaged in truant conduct
12 may be returned unless the state has proved the conduct beyond a
13 reasonable doubt. In all jury cases the jury will be instructed
14 that the burden is on the state to prove that a child has engaged in
15 truant conduct beyond a reasonable doubt.

16 (g) If the court or jury finds that the child did not engage
17 in truant conduct, the court shall dismiss the case with prejudice.

18 (h) If the court or jury finds that the child did engage in
19 truant conduct, the court shall proceed to issue a judgment finding
20 the child has engaged in truant conduct and order the remedies the
21 court finds appropriate under Section 65.103. The jury is not
22 involved in ordering remedies for a child who has been adjudicated
23 as having engaged in truant conduct.

24 Sec. 65.102. REMEDIAL ACTIONS. (a) The truancy court
25 shall determine and order appropriate remedial actions in regard to
26 a child who has been found to have engaged in truant conduct.

27 (b) The truancy court shall orally pronounce the court's
28 remedial actions in the child's presence and enter those actions in
29 a written order.

30 (c) After pronouncing the court's remedial actions, the
31 court shall advise the child and the child's parent, guardian, or

1 guardian ad litem of:

2 (1) the child's right to appeal, as detailed in
3 Subchapter D; and

4 (2) the procedures for the sealing of the child's
5 records under Section 65.201.

6 Sec. 65.103. REMEDIAL ORDER. (a) A truancy court may
7 enter a remedial order requiring a child who has been found to have
8 engaged in truant conduct to:

9 (1) attend school without unexcused absences;

10 (2) attend a preparatory class for the high school
11 equivalency examination administered under Section 7.111,
12 Education Code, if the court determines that the individual is
13 unlikely to do well in a formal classroom environment due to the
14 individual's age;

15 (3) if the child is at least 16 years of age, take the
16 high school equivalency examination administered under Section
17 7.111, Education Code, if that is in the best interest of the child;

18 (4) attend a nonprofit, community-based special
19 program that the court determines to be in the best interest of the
20 child, including:

21 (A) an alcohol and drug abuse program;

22 (B) a rehabilitation program;

23 (C) a counseling program, including a
24 self-improvement program;

25 (D) a program that provides training in
26 self-esteem and leadership;

27 (E) a work and job skills training program;

28 (F) a program that provides training in
29 parenting, including parental responsibility;

30 (G) a program that provides training in manners;

31 (H) a program that provides training in violence

1 avoidance;

2 (I) a program that provides sensitivity
3 training; and

4 (J) a program that provides training in advocacy
5 and mentoring;

6 (5) complete not more than 50 hours of community
7 service on a project acceptable to the court; and

8 (6) participate for a specified number of hours in a
9 tutorial program covering the academic subjects in which the child
10 is enrolled that are provided by the school the child attends.

11 (b) A truancy court may not order a child who has been found
12 to have engaged in truant conduct to:

13 (1) attend a juvenile justice alternative education
14 program, a boot camp, or a for-profit truancy class; or

15 (2) perform more than 16 hours of community service
16 per week under this section.

17 (c) In addition to any other order authorized by this
18 section, a truancy court may order the Department of Public Safety
19 to suspend the driver's license or permit of a child who has been
20 found to have engaged in truant conduct. If the child does not have
21 a driver's license or permit, the court may order the Department of
22 Public Safety to deny the issuance of a license or permit to the
23 child. The period of the license or permit suspension or the order
24 that the issuance of a license or permit be denied may not extend
25 beyond the maximum time period that a remedial order is effective as
26 provided by Section 65.104.

27 Sec. 65.104. MAXIMUM TIME REMEDIAL ORDER IS EFFECTIVE. A
28 truancy court's remedial order under Section 65.103 is effective
29 until the later of:

30 (1) the date specified by the court in the order, which
31 may not be later than the 180th day after the date the order is

1 entered; or

2 (2) the last day of the school year in which the order
3 was entered.

4 Sec. 65.105. ORDERS AFFECTING PARENTS AND OTHERS. (a) If
5 a child has been found to have engaged in truant conduct, the
6 truancy court may:

7 (1) order the child and the child's parent to attend a
8 class for students at risk of dropping out of school that is
9 designed for both the child and the child's parent;

10 (2) order any person found by the court to have, by a
11 wilful act or omission, contributed to, caused, or encouraged the
12 child's truant conduct to do any act that the court determines to be
13 reasonable and necessary for the welfare of the child or to refrain
14 from doing any act that the court determines to be injurious to the
15 child's welfare;

16 (3) enjoin all contact between the child and a person
17 who is found to be a contributing cause of the child's truant
18 conduct, unless that person is the child's parent or guardian, in
19 which case the court may contact the Department of Family and
20 Protective Services, if necessary;

21 (4) after notice to, and a hearing with, all persons
22 affected, order any person living in the same household with the
23 child to participate in social or psychological counseling to
24 assist in the child's rehabilitation;

25 (5) order the child's parent or other person
26 responsible for the child's support to pay all or part of the
27 reasonable costs of treatment programs in which the child is
28 ordered to participate if the court finds the child's parent or
29 person responsible for the child's support is able to pay the costs;

30 (6) order the child's parent to attend a program for
31 parents of students with unexcused absences that provides

1 instruction designed to assist those parents in identifying
2 problems that contribute to the child's unexcused absences and in
3 developing strategies for resolving those problems; and

4 (7) order the child's parent to perform not more than
5 50 hours of community service with the child.

6 (b) A person subject to an order proposed under Subsection
7 (a) is entitled to a hearing before the order is entered by the
8 court.

9 (c) On a finding by the court that a child's parents have
10 made a reasonable good faith effort to prevent the child from
11 engaging in truant conduct and that, despite the parents' efforts,
12 the child continues to engage in truant conduct, the court shall
13 waive any requirement for community service that may be imposed on a
14 parent under this section.

15 Sec. 65.106. LIABILITY FOR CLAIMS ARISING FROM COMMUNITY
16 SERVICE. (a) A municipality or county that establishes a program
17 to assist children and their parents in rendering community service
18 under this subchapter may purchase an insurance policy protecting
19 the municipality or county against a claim brought by a person other
20 than the child or the child's parent for a cause of action that
21 arises from an act of the child or parent while rendering the
22 community service. The municipality or county is not liable for the
23 claim to the extent that damages are recoverable under a contract of
24 insurance or under a plan of self-insurance authorized by statute.

25 (b) The liability of the municipality or county for a claim
26 that arises from an action of the child or the child's parent while
27 rendering community service may not exceed \$100,000 to a single
28 person and \$300,000 for a single occurrence in the case of personal
29 injury or death, and \$10,000 for a single occurrence of property
30 damage. Liability may not extend to punitive or exemplary damages.

31 (c) This section does not waive a defense, immunity, or

1 jurisdictional bar available to the municipality or county or its
2 officers or employees, nor shall this section be construed to
3 waive, repeal, or modify any provision of Chapter 101, Civil
4 Practice and Remedies Code.

5 Sec. 65.107. COURT COST. (a) If a child is found to have
6 engaged in truant conduct, the truancy court, after giving the
7 child, parent, or other person responsible for the child's support
8 a reasonable opportunity to be heard, shall order the child,
9 parent, or other person, if financially able to do so, to pay a
10 court cost of \$50 to the clerk of the court.

11 (b) The court's order to pay the \$50 court cost is not
12 effective unless the order is reduced to writing and signed by the
13 judge. The written order to pay the court cost may be part of the
14 court's order detailing the remedial actions in the case.

15 (c) The clerk of the court shall keep a record of the court
16 costs collected under this section and shall forward the funds to
17 the county treasurer, municipal treasurer, or person fulfilling the
18 role of a county treasurer or municipal treasurer, as appropriate.

19 (d) The court costs collected under this section shall be
20 deposited in a special account that can be used only to offset the
21 cost of the operations of the truancy court.

22 Sec. 65.108. HEARING TO MODIFY REMEDY. (a) A truancy
23 court may hold a hearing to modify any remedy imposed by the court.
24 A remedy may only be modified during the period the order is
25 effective under Section 65.104.

26 (b) There is no right to a jury at a hearing under this
27 section.

28 (c) A hearing to modify a remedy imposed by the court shall
29 be held on the petition of the state, the court, or the child and the
30 child's parent, guardian, guardian ad litem, or attorney.
31 Reasonable notice of a hearing to modify disposition shall be given

1 to all parties.

2 (d) Notwithstanding any other law, in considering a motion
3 to modify a remedy imposed by the court, the truancy court may
4 consider a written report from a school district official or
5 employee, juvenile case manager, or professional consultant in
6 addition to the testimony of witnesses. The court shall provide the
7 attorney for the child and the prosecuting attorney with access to
8 all written matters to be considered by the court. The court may
9 order counsel not to reveal items to the child or to the child's
10 parent, guardian, or guardian ad litem if the disclosure would
11 materially harm the treatment and rehabilitation of the child or
12 would substantially decrease the likelihood of receiving
13 information from the same or similar sources in the future.

14 (e) The truancy court shall pronounce in court, in the
15 presence of the child, the court's changes to the remedy, if any.
16 The court shall specifically state the new remedy and the court's
17 reasons for modifying the remedy in a written order. The court
18 shall furnish a copy of the order to the child.

19 Sec. 65.109. MOTION FOR NEW TRIAL. The order of a truancy
20 court may be challenged by filing a motion for new trial. Rules
21 505.3(c) and (e), Texas Rules of Civil Procedure, apply to a motion
22 for new trial.

23 SUBCHAPTER D. APPEAL

24 Sec. 65.151. RIGHT TO APPEAL. (a) The child or the state
25 may appeal any order of a truancy court.

26 (b) An appeal from a truancy court shall be to a juvenile
27 court. The case must be tried de novo in the juvenile court. This
28 chapter applies to the de novo trial in the juvenile court. On
29 appeal, the judgment of the truancy court is vacated.

30 (c) A judgment of a juvenile court in a trial conducted
31 under Subsection (b) may be appealed in the same manner as an appeal

1 under Chapter 56.

2 Sec. 65.152. GOVERNING LAW. Rule 506, Texas Rules of Civil
3 Procedure, applies to the appeal of an order of a truancy court to a
4 juvenile court in the same manner as the rule applies to an appeal
5 of a judgment of a justice court to a county court, except an appeal
6 bond is not required.

7 Sec. 65.153. COUNSEL ON APPEAL. (a) A child may be
8 represented by counsel on appeal.

9 (b) If the child and the child's parent, guardian, or
10 guardian ad litem request an appeal, the attorney who represented
11 the child before the truancy court, if any, shall file a notice of
12 appeal with the court that will hear the appeal and inform that
13 court whether that attorney will handle the appeal.

14 (c) An appeal serves to vacate the order of the truancy
15 court.

16 SUBCHAPTER E. RECORDS

17 Sec. 65.201. SEALING OF RECORDS. (a) A child who has been
18 found to have engaged in truant conduct may apply, on or after the
19 child's 18th birthday, to the truancy court that made the finding to
20 seal the records relating to the allegation and finding of truant
21 conduct held by:

22 (1) the court;

23 (2) the truant conduct prosecutor; and

24 (3) the school district.

25 (b) The application must include the following information
26 or an explanation of why one or more of the following is not
27 included:

28 (1) the child's:

29 (A) full name;

30 (B) sex;

31 (C) race or ethnicity;

1 (D) date of birth;

2 (E) driver's license or identification card
3 number; and

4 (F) social security number;

5 (2) the dates on which the truant conduct was alleged
6 to have occurred; and

7 (3) if known, the cause number assigned to the
8 petition and the court and county in which the petition was filed.

9 (c) The truancy court shall order that the records be sealed
10 after determining the child complied with the remedies ordered by
11 the court in the case.

12 (d) All index references to the records of the truancy court
13 that are ordered sealed shall be deleted not later than the 30th day
14 after the date of the sealing order.

15 (e) A truancy court, clerk of the court, truant conduct
16 prosecutor, or school district shall reply to a request for
17 information concerning a child's sealed truant conduct case that no
18 record exists with respect to the child.

19 (f) Inspection of the sealed records may be permitted by an
20 order of the truancy court on the petition of the person who is the
21 subject of the records and only by those persons named in the order.

22 (g) A person whose records have been sealed under this
23 section is not required in any proceeding or in any application for
24 employment, information, or licensing to state that the person has
25 been the subject of a proceeding under this chapter. Any statement
26 that the person has never been found to have engaged in truant
27 conduct may not be held against the person in any criminal or civil
28 proceeding.

29 (h) On or after the fifth anniversary of a child's 16th
30 birthday, on the motion of the child or on the truancy court's own
31 motion, the truancy court may order the destruction of the child's

1 records that have been sealed under this section if the child has
2 not been convicted of a felony.

3 Sec. 65.202. CONFIDENTIALITY OF RECORDS. Records and files
4 created under this chapter may be disclosed only to:

5 (1) the judge of the truancy court, the truant conduct
6 prosecutor, and the staff of the judge and prosecutor;

7 (2) the child or an attorney for the child;

8 (3) a governmental agency if the disclosure is
9 required or authorized by law;

10 (4) a person or entity to whom the child is referred
11 for treatment or services if the agency or institution disclosing
12 the information has entered into a written confidentiality
13 agreement with the person or entity regarding the protection of the
14 disclosed information;

15 (5) the Texas Department of Criminal Justice and the
16 Texas Juvenile Justice Department for the purpose of maintaining
17 statistical records of recidivism and for diagnosis and
18 classification;

19 (6) the agency; or

20 (7) with leave of the truancy court, any other person,
21 agency, or institution having a legitimate interest in the
22 proceeding or in the work of the court.

23 Sec. 65.203. DESTRUCTION OF CERTAIN RECORDS. A truancy
24 court shall order the destruction of records relating to
25 allegations of truant conduct that are held by the court or by the
26 prosecutor if a prosecutor decides not to file a petition for an
27 adjudication of truant conduct after a review of the referral under
28 Section 65.053.

29 SUBCHAPTER F. ENFORCEMENT OF ORDERS

30 Sec. 65.251. FAILURE TO OBEY TRUANCY COURT ORDER; CHILD IN
31 CONTEMPT OF COURT. (a) If a child fails to obey an order issued by

1 a truancy court under Section 65.103(a) or a child is in direct
2 contempt of court, the truancy court, after providing notice and an
3 opportunity for a hearing, may hold the child in contempt of court
4 and order either or both of the following:

5 (1) that the child pay a fine not to exceed \$100; or

6 (2) that the Department of Public Safety suspend the
7 child's driver's license or permit or, if the child does not have a
8 license or permit, order that the Department of Public Safety deny
9 the issuance of a license or permit to the child until the child
10 fully complies with the court's orders.

11 (b) If a child fails to obey an order issued by a truancy
12 court under Section 65.103(a) or a child is in direct contempt of
13 court and the child has failed to obey an order or has been found in
14 direct contempt of court on two or more previous occasions, the
15 truancy court, after providing notice and an opportunity for a
16 hearing, may refer the child to the juvenile probation department
17 as a request for truancy intervention, unless the child failed to
18 obey the truancy court order or was in direct contempt of court
19 while 17 years of age or older.

20 (c) On referral of the child to the juvenile probation
21 department, the truancy court shall provide to the juvenile
22 probation department:

23 (1) documentation of all truancy prevention measures
24 taken by the originating school district;

25 (2) documentation of all truancy orders for each of
26 the child's previous truancy referrals, including:

27 (A) court remedies and documentation of the
28 child's failure to comply with the truancy court's orders, if
29 applicable, demonstrating all interventions that were exhausted by
30 the truancy court; and

31 (B) documentation describing the child's direct

1 contempt of court, if applicable;

2 (3) the name, birth date, and last known address of the
3 child and the school in which the child is enrolled; and

4 (4) the name and last known address of the child's
5 parent or guardian.

6 (d) The juvenile probation department may, on review of
7 information provided under Subsection (c):

8 (1) offer further remedies related to the local plan
9 for truancy intervention strategies adopted under Section
10 25.0916(f)(4), Education Code; or

11 (2) refer the child to a juvenile court for a hearing
12 to be conducted under Section 65.252.

13 (e) A truancy court may not order the confinement of a child
14 for the child's failure to obey an order of the court issued under
15 Section 65.103(a).

16 Sec. 65.252. PROCEEDINGS IN JUVENILE COURT. (a) After a
17 referral by the local juvenile probation department, the juvenile
18 court prosecutor shall determine if probable cause exists to
19 believe that the child engaged in direct contempt of court or failed
20 to obey an order of the truancy court under circumstances that would
21 constitute contempt of court. On a finding that probable cause
22 exists, the prosecutor shall determine whether to request an
23 adjudication. Not later than the 20th day after the date the
24 juvenile court receives a request for adjudication from the
25 prosecutor, the juvenile court shall conduct a hearing to determine
26 if the child engaged in conduct that constitutes contempt of the
27 order issued by the truancy court or engaged in direct contempt of
28 court.

29 (b) If the juvenile court finds that the child engaged in
30 conduct that constitutes contempt of the order issued by the
31 truancy court or direct contempt of court, the juvenile court

1 shall:

2 (1) enter an order requiring the child to comply with
3 the truancy court's order;

4 (2) forward a copy of the order to the truancy court
5 within five days; and

6 (3) admonish the child, orally and in writing, of the
7 consequences of subsequent referrals to the juvenile court,
8 including:

9 (A) a possible charge of delinquent conduct for
10 contempt of the truancy court's order or direct contempt of court;
11 and

12 (B) a possible detention hearing.

13 (c) If the juvenile court prosecutor finds that probable
14 cause does not exist to believe that the child engaged in direct
15 contempt or in conduct that constitutes contempt of the order
16 issued by the truancy court, or if the juvenile probation
17 department finds that extenuating circumstances caused the
18 original truancy referral, the juvenile court shall enter an order
19 requiring the child's continued compliance with the truancy court's
20 order and notify the truancy court not later than the fifth day
21 after the date the order is entered.

22 (d) This section does not limit the discretion of a juvenile
23 prosecutor or juvenile court to prosecute a child for conduct under
24 Section 51.03.

25 Sec. 65.253. PARENT OR OTHER PERSON IN CONTEMPT OF COURT.

26 (a) A truancy court may enforce the following orders by contempt:

27 (1) an order that a parent of a child, guardian of a
28 child, or any court-appointed guardian ad litem of a child attend an
29 adjudication hearing under Section 65.062(b);

30 (2) an order requiring a person other than a child to
31 take a particular action under Section 65.105(a);

1 (3) an order that a child's parent, or other person
2 responsible to support the child, reimburse the municipality or
3 county for the cost of the guardian ad litem appointed for the child
4 under Section 65.061(c); and

5 (4) an order that a parent, or person other than the
6 child, pay the \$50 court cost under Section 65.107.

7 (b) A truancy court may find a parent or person other than
8 the child in direct contempt of the court.

9 (c) The penalty for a finding of contempt under Subsection
10 (a) or (b) is a fine in an amount not to exceed \$100.

11 (d) In addition to the assessment of a fine under Subsection
12 (c), direct contempt of the truancy court by a parent or person
13 other than the child is punishable by:

14 (1) confinement in jail for a maximum of three days;

15 (2) a maximum of 40 hours of community service; or

16 (3) both confinement and community service.

17 Sec. 65.254. WRIT OF ATTACHMENT. A truancy court may issue
18 a writ of attachment for a person who violates an order entered
19 under Section 65.057(c). The writ of attachment is executed in the
20 same manner as in a criminal proceeding as provided by Chapter 24,
21 Code of Criminal Procedure.

22 Sec. 65.255. ENTRY OF TRUANCY COURT ORDER AGAINST PARENT OR
23 OTHER ELIGIBLE PERSON. (a) The truancy court shall:

24 (1) provide notice to a person who is the subject of a
25 proposed truancy court order under Section 65.253; and

26 (2) provide a sufficient opportunity for the person to
27 be heard regarding the proposed order.

28 (b) A truancy court order under Section 65.253 must be in
29 writing and a copy promptly furnished to the parent or other
30 eligible person.

31 (c) The truancy court may require the parent or other

1 eligible person to provide suitable identification to be included
2 in the court's file. Suitable identification includes
3 fingerprints, a driver's license number, a social security number,
4 or similar indicia of identity.

5 Sec. 65.256. APPEAL. (a) The parent or other eligible
6 person against whom a final truancy court order has been entered
7 under Section 65.253 may appeal as provided by law from judgments
8 entered by a justice court in civil cases.

9 (b) Rule 506, Texas Rules of Civil Procedure, applies to an
10 appeal under this section, except an appeal bond is not required.

11 (c) The pendency of an appeal initiated under this section
12 does not abate or otherwise affect the proceedings in the truancy
13 court involving the child.

14 Sec. 65.257. MOTION FOR ENFORCEMENT. (a) The state may
15 initiate enforcement of a truancy court order under Section 65.253
16 against a parent or person other than the child by filing a written
17 motion. In ordinary and concise language, the motion must:

18 (1) identify the provision of the order allegedly
19 violated and sought to be enforced;

20 (2) state specifically and factually the manner of the
21 person's alleged noncompliance;

22 (3) state the relief requested; and

23 (4) contain the signature of the party filing the
24 motion.

25 (b) The state must allege the particular violation by the
26 person of the truancy court order that the state had a reasonable
27 basis for believing the person was violating when the motion was
28 filed.

29 (c) The truancy court may also initiate enforcement of an
30 order under this section on its own motion.

31 Sec. 65.258. NOTICE AND APPEARANCE. (a) On the filing of a

1 motion for enforcement, the truancy court shall by written notice
2 set the date, time, and place of the hearing and order the person
3 against whom enforcement is sought to appear and respond to the
4 motion.

5 (b) The notice must be given by personal service or by
6 certified mail, return receipt requested, on or before the 10th day
7 before the date of the hearing on the motion. The notice must
8 include a copy of the motion for enforcement. Personal service must
9 comply with the Code of Criminal Procedure.

10 (c) If a person moves to strike or specially excepts to the
11 motion for enforcement, the truancy court shall rule on the
12 exception or motion to strike before the court hears evidence on the
13 motion for enforcement. If an exception is sustained, the court
14 shall give the movant an opportunity to replead and continue the
15 hearing to a designated date and time without the requirement of
16 additional service.

17 (d) If a person who has been personally served with notice
18 to appear at the hearing does not appear, the truancy court may not
19 hold the person in contempt, but may issue a warrant for the arrest
20 of the person.

21 Sec. 65.259. CONDUCT OF ENFORCEMENT HEARING. (a) The
22 movant must prove beyond a reasonable doubt that the person against
23 whom enforcement is sought engaged in conduct constituting contempt
24 of a reasonable and lawful court order as alleged in the motion for
25 enforcement.

26 (b) The person against whom enforcement is sought has a
27 privilege not to be called as a witness or otherwise to incriminate
28 himself or herself.

29 (c) The truancy court shall conduct the enforcement hearing
30 without a jury.

31 (d) The truancy court shall include in the court's judgment:

1 (1) findings for each violation alleged in the motion
2 for enforcement; and

3 (2) the punishment, if any, to be imposed.

4 (e) If the person against whom enforcement is sought was not
5 represented by counsel during any previous court proceeding
6 involving a motion for enforcement, the person may, through
7 counsel, raise any defense or affirmative defense to the proceeding
8 that could have been asserted in the previous court proceeding that
9 was not asserted because the person was not represented by counsel.

10 (f) It is an affirmative defense to enforcement of a truancy
11 court order under Section 65.253 that the court did not provide the
12 parent or other eligible person with due process of law in the
13 proceeding in which the court entered the order.

14 SECTION 28. Section 264.304(c), Family Code, is amended to
15 read as follows:

16 (c) The court shall determine that the child is an at-risk
17 child if the court finds that the child has engaged in the following
18 conduct:

19 (1) conduct, other than a traffic offense and except
20 as provided by Subsection (d), that violates:

21 (A) the penal laws of this state; or

22 (B) the penal ordinances of any political
23 subdivision of this state;

24 (2) the unexcused voluntary absence of the child on 10
25 or more days or parts of days within a six-month period [~~or three or~~
26 ~~more days or parts of days within a four-week period~~] from school
27 without the consent of the child's parent, managing conservator, or
28 guardian;

29 (3) the voluntary absence of the child from the child's
30 home without the consent of the child's parent, managing
31 conservator, or guardian for a substantial length of time or

1 without intent to return;

2 (4) conduct that violates the laws of this state
3 prohibiting driving while intoxicated or under the influence of
4 intoxicating liquor (first or second offense) or driving while
5 under the influence of any narcotic drug or of any other drug to a
6 degree that renders the child incapable of safely driving a vehicle
7 (first or second offense); or

8 (5) conduct that evidences a clear and substantial
9 intent to engage in any behavior described by Subdivisions (1)-(4).

10 SECTION 29. Section 26.045(d), Government Code, is amended
11 to read as follows:

12 (d) A county court in a county with a population of 1.75
13 million or more has original jurisdiction over cases alleging a
14 violation of Section 25.093 [~~or 25.094~~], Education Code, or
15 alleging truant conduct under Section 65.003(a), Family Code.

16 SECTION 30. Section 29.003(i), Government Code, is amended
17 to read as follows:

18 (i) A municipality may enter into an agreement with a
19 contiguous municipality or a municipality with boundaries that are
20 within one-half mile of the municipality seeking to enter into the
21 agreement to establish concurrent jurisdiction of the municipal
22 courts in the municipalities and provide original jurisdiction to a
23 municipal court in which a case is brought as if the municipal court
24 were located in the municipality in which the case arose, for:

25 (1) all cases in which either municipality has
26 jurisdiction under Subsection (a); and

27 (2) cases that arise under Section 821.022, Health and
28 Safety Code, or Section 65.003(a) [~~25.094~~], Family [~~Education~~]
29 Code.

30 SECTION 31. Subtitle B, Title 2, Government Code, is
31 amended by adding Chapter 36 to read as follows:

1 CHAPTER 36. JUDICIAL DONATION TRUST FUNDS FOR TRUANCY

2 Sec. 36.001. ESTABLISHMENT OF TRUST FUNDS. (a) The
3 governing body of a municipality or the commissioners court of a
4 county may establish a judicial donation trust fund as a separate
5 account held outside the municipal or county treasury to be used in
6 accordance with this chapter.

7 (b) The governing body of a municipality or the
8 commissioners court of a county may accept a gift, grant, donation,
9 or other consideration from a public or private source that is
10 designated for the judicial donation trust fund.

11 (c) Money received under Subsection (b) shall be deposited
12 in the judicial donation trust fund and may only be disbursed in
13 accordance with this chapter.

14 (d) Interest and income from the assets of the judicial
15 donation trust fund shall be credited to and deposited in the trust
16 fund.

17 Sec. 36.002. PROCEDURES AND ELIGIBILITY. The governing
18 body of a municipality or the commissioners court of a county shall:

19 (1) adopt the procedures necessary to receive and
20 disburse money from the judicial donation trust fund under this
21 chapter; and

22 (2) establish eligibility requirements for
23 disbursement of money under this chapter to assist needy children
24 or families who appear before a truancy court or justice or
25 municipal court for truant conduct under Chapter 65, Family Code,
26 or an offense under Section 25.093, Education Code, as applicable,
27 by providing money for resources and services that eliminate
28 barriers to school attendance or that seek to prevent criminal
29 behavior.

30 Sec. 36.003. USE OF FUNDS IN ACCOUNT. (a) The judge of a
31 truancy court or justice or municipal court, in accordance with

1 Section 36.002, may award money from a judicial donation trust fund
2 established under Section 36.001 to eligible children or families
3 who appear before the court for truant conduct or an offense under
4 Section 25.093, Education Code.

5 (b) A judge of a truancy court or justice or municipal court
6 may order the municipal or county treasurer to issue payment from
7 the judicial donation trust fund for money awarded under this
8 section.

9 SECTION 32. Section 54.1172(a), Government Code, is amended
10 to read as follows:

11 (a) The county judge may appoint one or more part-time or
12 full-time magistrates to hear a matter alleging a violation of
13 Section 25.093 [~~or 25.094~~], Education Code, or alleging truant
14 conduct under Section 65.003(a), Family Code.

15 SECTION 33. Section 54.1952(a), Government Code, is amended
16 to read as follows:

17 (a) The county judge may appoint one or more part-time or
18 full-time magistrates to hear a matter alleging a violation of
19 Section 25.093 [~~or 25.094~~], Education Code, or alleging truant
20 conduct under Section 65.003(a), Family Code, referred to the
21 magistrate by a court having jurisdiction over the matter.

22 SECTION 34. Section 54.1955, Government Code, is amended to
23 read as follows:

24 Sec. 54.1955. POWERS. (a) Except as limited by an order of
25 the county judge, a magistrate appointed under this subchapter may:

- 26 (1) conduct hearings;
- 27 (2) hear evidence;
- 28 (3) issue summons for the appearance of witnesses;
- 29 (4) examine witnesses;
- 30 (5) swear witnesses for hearings;
- 31 (6) recommend rulings or orders or a judgment in a

1 case;

2 (7) regulate proceedings in a hearing;

3 (8) accept a plea of guilty or nolo contendere in a
4 case alleging a violation of Section 25.093 [~~or 25.094~~], Education
5 Code, and assess a fine or court costs or order community service in
6 satisfaction of a fine or costs in accordance with Article 45.049,
7 Code of Criminal Procedure;

8 (9) for a violation of Section 25.093, Education Code,
9 enter an order suspending a sentence or deferring a final
10 disposition that includes at least one of the requirements listed
11 in Article 45.051, Code of Criminal Procedure;

12 (10) for an uncontested adjudication of truant conduct
13 under Section 65.003, Family Code, accept a plea to the petition or
14 a stipulation of evidence, and take any other action authorized
15 under Chapter 65, Family Code; and

16 (11) perform any act and take any measure necessary
17 and proper for the efficient performance of the duties required by
18 the referral order, including the entry of an order that includes at
19 least one of the remedial options [~~requirements~~] in Section 65.103,
20 Family Code [~~Article 45.054, Code of Criminal Procedure; and~~

21 [~~(11) if the magistrate finds that a child as defined~~
22 ~~by Article 45.058, Code of Criminal Procedure, has violated an~~
23 ~~order under Article 45.054, Code of Criminal Procedure, proceed as~~
24 ~~authorized by Article 45.050, Code of Criminal Procedure]~~.

25 (b) With respect to an issue of law or fact the ruling on
26 which could result in the dismissal of a prosecution under Section
27 25.093 [~~or 25.094~~], Education Code, or a case of truant conduct
28 under Section 65.003, Family Code, a magistrate may not rule on the
29 issue but may make findings, conclusions, and recommendations on
30 the issue.

31 SECTION 35. Section 54.1956, Government Code, is amended to

1 read as follows:

2 Sec. 54.1956. NOT GUILTY PLEA ENTERED OR DENIAL OF ALLEGED
3 CONDUCT. (a) On entry of a not guilty plea for a violation of
4 Section 25.093, Education Code, the magistrate shall refer the case
5 back to the referring court for all further pretrial proceedings
6 and a full trial on the merits before the court or a jury.

7 (b) On denial by a child of truant conduct, as defined by
8 Section 65.003(a), Family Code, the magistrate shall refer the case
9 to the appropriate truancy court for adjudication.

10 SECTION 36. Section 71.0352, Government Code, is amended to
11 read as follows:

12 Sec. 71.0352. JUVENILE DATA ~~[DATE]~~: JUSTICE, MUNICIPAL,
13 AND TRUANCY ~~[JUVENILE]~~ COURTS. As a component of the official
14 monthly report submitted to the Office of Court Administration of
15 the Texas Judicial System:

16 (1) a justice court, [and] municipal court, or truancy
17 court ~~[courts]~~ shall report the number of cases filed for ~~[the~~
18 ~~following offenses]~~:

19 (A) truant conduct under Section 65.003(a),
20 Family Code ~~[failure to attend school under Section 25.094,~~
21 ~~Education Code]~~;

22 (B) the offense of parent contributing to
23 nonattendance under Section 25.093, Education Code; and

24 (C) a violation of a local daytime curfew
25 ordinance adopted under Section 341.905 or 351.903, Local
26 Government Code; and

27 (2) in cases in which a child fails to obey an order of
28 a justice court, ~~[or]~~ municipal court, or truancy court under
29 circumstances that would constitute contempt of court, the justice
30 court, [or] municipal court, or truancy court shall report the
31 number of incidents in which the child is:

1 (A) referred to the appropriate juvenile court
2 for delinquent conduct as provided by Article 45.050(c)(1), Code of
3 Criminal Procedure, or ~~[and]~~ Section 65.251 ~~[51.03(a)(2)]~~, Family
4 Code; or

5 (B) held in contempt, fined, or denied driving
6 privileges as provided by Article 45.050(c)(2), Code of Criminal
7 Procedure, or Section 65.251, Family Code.

8 SECTION 37. Section 102.021, Government Code, is amended to
9 read as follows:

10 Sec. 102.021. COURT COSTS ON CONVICTION: CODE OF CRIMINAL
11 PROCEDURE. A person convicted of an offense shall pay the following
12 under the Code of Criminal Procedure, in addition to all other
13 costs:

14 (1) court cost on conviction of any offense, other
15 than a conviction of an offense relating to a pedestrian or the
16 parking of a motor vehicle (Art. 102.0045, Code of Criminal
17 Procedure) . . . \$4;

18 (2) a fee for services of prosecutor (Art. 102.008,
19 Code of Criminal Procedure) . . . \$25;

20 (3) fees for services of peace officer:

21 (A) issuing a written notice to appear in court
22 for certain violations (Art. 102.011, Code of Criminal Procedure)
23 . . . \$5;

24 (B) executing or processing an issued arrest
25 warrant, capias, or capias pro fine (Art. 102.011, Code of Criminal
26 Procedure) . . . \$50;

27 (C) summoning a witness (Art. 102.011, Code of
28 Criminal Procedure) . . . \$5;

29 (D) serving a writ not otherwise listed (Art.
30 102.011, Code of Criminal Procedure) . . . \$35;

31 (E) taking and approving a bond and, if

1 necessary, returning the bond to courthouse (Art. 102.011, Code of
2 Criminal Procedure) . . . \$10;

3 (F) commitment or release (Art. 102.011, Code of
4 Criminal Procedure) . . . \$5;

5 (G) summoning a jury (Art. 102.011, Code of
6 Criminal Procedure) . . . \$5;

7 (H) attendance of a prisoner in habeas corpus
8 case if prisoner has been remanded to custody or held to bail (Art.
9 102.011, Code of Criminal Procedure) . . . \$8 each day;

10 (I) mileage for certain services performed (Art.
11 102.011, Code of Criminal Procedure) . . . \$0.29 per mile; and

12 (J) services of a sheriff or constable who serves
13 process and attends examining trial in certain cases (Art. 102.011,
14 Code of Criminal Procedure) . . . not to exceed \$5;

15 (4) services of a peace officer in conveying a witness
16 outside the county (Art. 102.011, Code of Criminal Procedure) . . .
17 \$10 per day or part of a day, plus actual necessary travel expenses;

18 (5) overtime of peace officer for time spent
19 testifying in the trial or traveling to or from testifying in the
20 trial (Art. 102.011, Code of Criminal Procedure) . . . actual cost;

21 (6) court costs on an offense relating to rules of the
22 road, when offense occurs within a school crossing zone (Art.
23 102.014, Code of Criminal Procedure) . . . \$25;

24 (7) court costs on an offense of passing a school bus
25 (Art. 102.014, Code of Criminal Procedure) . . . \$25;

26 (8) court costs on an offense of parent contributing
27 to student nonattendance [~~truancy or contributing to truancy~~] (Art.
28 102.014, Code of Criminal Procedure) . . . \$20;

29 (9) cost for visual recording of intoxication arrest
30 before conviction (Art. 102.018, Code of Criminal Procedure) . . .
31 \$15;

1 (10) cost of certain evaluations (Art. 102.018, Code
2 of Criminal Procedure) . . . actual cost;

3 (11) additional costs attendant to certain
4 intoxication convictions under Chapter 49, Penal Code, for
5 emergency medical services, trauma facilities, and trauma care
6 systems (Art. 102.0185, Code of Criminal Procedure) . . . \$100;

7 (12) additional costs attendant to certain child
8 sexual assault and related convictions, for child abuse prevention
9 programs (Art. 102.0186, Code of Criminal Procedure) . . . \$100;

10 (13) court cost for DNA testing for certain felonies
11 (Art. 102.020(a)(1), Code of Criminal Procedure) . . . \$250;

12 (14) court cost for DNA testing for the offense of
13 public lewdness or indecent exposure (Art. 102.020(a)(2), Code of
14 Criminal Procedure) . . . \$50;

15 (15) court cost for DNA testing for certain felonies
16 (Art. 102.020(a)(3), Code of Criminal Procedure) . . . \$34;

17 (16) if required by the court, a restitution fee for
18 costs incurred in collecting restitution installments and for the
19 compensation to victims of crime fund (Art. 42.037, Code of
20 Criminal Procedure) . . . \$12;

21 (17) if directed by the justice of the peace or
22 municipal court judge hearing the case, court costs on conviction
23 in a criminal action (Art. 45.041, Code of Criminal Procedure)
24 . . . part or all of the costs as directed by the judge; and

25 (18) costs attendant to convictions under Chapter 49,
26 Penal Code, and under Chapter 481, Health and Safety Code, to help
27 fund drug court programs established under Chapter 122, 123, 124,
28 or 125, Government Code, or former law (Art. 102.0178, Code of
29 Criminal Procedure) . . . \$60.

30 SECTION 38. Section 103.021, Government Code, is amended to
31 read as follows:

1 Sec. 103.021. ADDITIONAL FEES AND COSTS IN CRIMINAL OR
2 CIVIL CASES: CODE OF CRIMINAL PROCEDURE. An accused or defendant,
3 or a party to a civil suit, as applicable, shall pay the following
4 fees and costs under the Code of Criminal Procedure if ordered by
5 the court or otherwise required:

6 (1) a personal bond fee (Art. 17.42, Code of Criminal
7 Procedure) . . . the greater of \$20 or three percent of the amount
8 of the bail fixed for the accused;

9 (2) cost of electronic monitoring as a condition of
10 release on personal bond (Art. 17.43, Code of Criminal Procedure)
11 . . . actual cost;

12 (3) a fee for verification of and monitoring of motor
13 vehicle ignition interlock (Art. 17.441, Code of Criminal
14 Procedure) . . . not to exceed \$10;

15 (3-a) costs associated with operating a global
16 positioning monitoring system as a condition of release on bond
17 (Art. 17.49(b)(2), Code of Criminal Procedure) . . . actual costs,
18 subject to a determination of indigency;

19 (3-b) costs associated with providing a defendant's
20 victim with an electronic receptor device as a condition of the
21 defendant's release on bond (Art. 17.49(b)(3), Code of Criminal
22 Procedure) . . . actual costs, subject to a determination of
23 indigency;

24 (4) repayment of reward paid by a crime stoppers
25 organization on conviction of a felony (Art. 37.073, Code of
26 Criminal Procedure) . . . amount ordered;

27 (5) reimbursement to general revenue fund for payments
28 made to victim of an offense as condition of community supervision
29 (Art. 42.12, Code of Criminal Procedure) . . . not to exceed \$50 for
30 a misdemeanor offense or \$100 for a felony offense;

31 (6) payment to a crime stoppers organization as

1 condition of community supervision (Art. 42.12, Code of Criminal
2 Procedure) . . . not to exceed \$50;

3 (7) children's advocacy center fee (Art. 42.12, Code
4 of Criminal Procedure) . . . not to exceed \$50;

5 (8) family violence center fee (Art. 42.12, Code of
6 Criminal Procedure) . . . \$100;

7 (9) community supervision fee (Art. 42.12, Code of
8 Criminal Procedure) . . . not less than \$25 or more than \$60 per
9 month;

10 (10) additional community supervision fee for certain
11 offenses (Art. 42.12, Code of Criminal Procedure) . . . \$5 per
12 month;

13 (11) for certain financially able sex offenders as a
14 condition of community supervision, the costs of treatment,
15 specialized supervision, or rehabilitation (Art. 42.12, Code of
16 Criminal Procedure) . . . all or part of the reasonable and
17 necessary costs of the treatment, supervision, or rehabilitation as
18 determined by the judge;

19 (12) fee for failure to appear for trial in a justice
20 or municipal court if a jury trial is not waived (Art. 45.026, Code
21 of Criminal Procedure) . . . costs incurred for impaneling the
22 jury;

23 (13) costs of certain testing, assessments, or
24 programs during a deferral period (Art. 45.051, Code of Criminal
25 Procedure) . . . amount ordered;

26 (14) special expense on dismissal of certain
27 misdemeanor complaints (Art. 45.051, Code of Criminal Procedure)
28 . . . not to exceed amount of fine assessed;

29 (15) an additional fee:

30 (A) for a copy of the defendant's driving record
31 to be requested from the Department of Public Safety by the judge

1 (Art. 45.0511(c-1), Code of Criminal Procedure) . . . amount equal
2 to the sum of the fee established by Section 521.048,
3 Transportation Code, and the state electronic Internet portal fee;
4 (B) as an administrative fee for requesting a
5 driving safety course or a course under the motorcycle operator
6 training and safety program for certain traffic offenses to cover
7 the cost of administering the article (Art. 45.0511(f)(1), Code of
8 Criminal Procedure) . . . not to exceed \$10; or
9 (C) for requesting a driving safety course or a
10 course under the motorcycle operator training and safety program
11 before the final disposition of the case (Art. 45.0511(f)(2), Code
12 of Criminal Procedure) . . . not to exceed the maximum amount of the
13 fine for the offense committed by the defendant;
14 (16) a request fee for teen court program (Art.
15 45.052, Code of Criminal Procedure) . . . \$20, if the court
16 ordering the fee is located in the Texas-Louisiana border region,
17 but otherwise not to exceed \$10;
18 (17) a fee to cover costs of required duties of teen
19 court (Art. 45.052, Code of Criminal Procedure) . . . \$20, if the
20 court ordering the fee is located in the Texas-Louisiana border
21 region, but otherwise \$10;
22 (18) a mileage fee for officer performing certain
23 services (Art. 102.001, Code of Criminal Procedure) . . . \$0.15 per
24 mile;
25 (19) certified mailing of notice of hearing date (Art.
26 102.006, Code of Criminal Procedure) . . . \$1, plus postage;
27 (20) certified mailing of certified copies of an order
28 of expunction (Art. 102.006, Code of Criminal Procedure) . . . \$2,
29 plus postage;
30 (20-a) a fee to defray the cost of notifying state
31 agencies of orders of expungement (Art. 45.0216, Code of Criminal

1 Procedure) . . . \$30 per application;
2 ~~[(20-b) a fee to defray the cost of notifying state~~
3 ~~agencies of orders of expunction (Art. 45.055, Code of Criminal~~
4 ~~Procedure) . . . \$30 per application,]~~
5 (21) sight orders:
6 (A) if the face amount of the check or sight order
7 does not exceed \$10 (Art. 102.007, Code of Criminal Procedure)
8 . . . not to exceed \$10;
9 (B) if the face amount of the check or sight order
10 is greater than \$10 but does not exceed \$100 (Art. 102.007, Code of
11 Criminal Procedure) . . . not to exceed \$15;
12 (C) if the face amount of the check or sight order
13 is greater than \$100 but does not exceed \$300 (Art. 102.007, Code of
14 Criminal Procedure) . . . not to exceed \$30;
15 (D) if the face amount of the check or sight order
16 is greater than \$300 but does not exceed \$500 (Art. 102.007, Code of
17 Criminal Procedure) . . . not to exceed \$50; and
18 (E) if the face amount of the check or sight order
19 is greater than \$500 (Art. 102.007, Code of Criminal Procedure)
20 . . . not to exceed \$75;
21 (22) fees for a pretrial intervention program:
22 (A) a supervision fee (Art. 102.012(a), Code of
23 Criminal Procedure) . . . \$60 a month plus expenses; and
24 (B) a district attorney, criminal district
25 attorney, or county attorney administrative fee (Art. 102.0121,
26 Code of Criminal Procedure) . . . not to exceed \$500;
27 (23) parking fee violations for child safety fund in
28 municipalities with populations:
29 (A) greater than 850,000 (Art. 102.014, Code of
30 Criminal Procedure) . . . not less than \$2 and not to exceed \$5; and
31 (B) less than 850,000 (Art. 102.014, Code of

1 Criminal Procedure) . . . not to exceed \$5;

2 (24) an administrative fee for collection of fines,
3 fees, restitution, or other costs (Art. 102.072, Code of Criminal
4 Procedure) . . . not to exceed \$2 for each transaction; and

5 (25) a collection fee, if authorized by the
6 commissioners court of a county or the governing body of a
7 municipality, for certain debts and accounts receivable, including
8 unpaid fines, fees, court costs, forfeited bonds, and restitution
9 ordered paid (Art. 103.0031, Code of Criminal Procedure) . . . 30
10 percent of an amount more than 60 days past due.

11 SECTION 39. Subchapter B, Chapter 103, Government Code, is
12 amended by adding Section 103.035 to read as follows:

13 Sec. 103.035. ADDITIONAL COSTS IN TRUANCY CASES: FAMILY
14 CODE. A party to a truancy case in a truancy court shall pay court
15 costs of \$50 under Section 65.107, Family Code, if ordered by the
16 truancy court.

17 SECTION 40. Section 81.032, Local Government Code, is
18 amended to read as follows:

19 Sec. 81.032. ACCEPTANCE OF DONATIONS AND BEQUESTS. The
20 commissioners court may accept a gift, grant, donation, bequest, or
21 devise of money or other property on behalf of the county, including
22 a donation under Chapter 36, Government Code, for the purpose of
23 performing a function conferred by law on the county or a county
24 officer.

25 SECTION 41. The following laws are repealed:

26 (1) Articles 45.054 and 45.055, Code of Criminal
27 Procedure;

28 (2) Sections 25.094 and 25.0916(d), Education Code;
29 and

30 (3) Sections 51.03(d), (e-1), and (g), 51.04(h),
31 51.08(e), 54.021, 54.0402, 54.041(f) and (g), and 54.05(a-1),

1 Family Code.

2 SECTION 42. The changes in law made by this Act apply only
3 to an offense committed or conduct that occurs on or after the
4 effective date of this Act. An offense committed or conduct that
5 occurs before the effective date of this Act is governed by the law
6 in effect on the date the offense was committed or the conduct
7 occurred, and the former law is continued in effect for that
8 purpose. For purposes of this section, an offense is committed or
9 conduct occurs before the effective date of this Act if any element
10 of the offense or conduct occurs before that date.

11 SECTION 43. To the extent of any conflict, this Act prevails
12 over another Act of the 84th Legislature, Regular Session, 2015,
13 relating to nonsubstantive additions to and corrections in enacted
14 codes.

15 SECTION 44. This Act takes effect immediately if it
16 receives a vote of two-thirds of all the members elected to each
17 house, as provided by Section 39, Article III, Texas Constitution.
18 If this Act does not receive the vote necessary for immediate
19 effect, this Act takes effect September 1, 2015.

FLOOR AMENDMENT NO. 2

BY: Whitnie

1 Amends amendment No. 1 to C.S.H.B No. 1490 (84R29274) as
2 follows:

3 (1)Page 2 line 26 through line 28 strike "The court shall
4 inform the individual of the expunction by sending a notice to
5 the individual's last known address."

6 (2)Page 40 line 17 insert "within the child's third degree
7 of consanguinity or affinity," and strike "the child's parent or
8 guardian,

9 (3) Page 43 line 24 after "child" insert ", parent or
10 guardian,

11 (4) page 43 line 25 after "court." insert Any person
12 subject to an order of a truancy court entered under section
13 65.105 may appeal that order.

14

ADOPTED

MAY 27 2015


Secretary of the Senate

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 28, 2015

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB1490** by Huberty (Relating to public school interventions for truancy and eliminating a criminal penalty and authorizing a civil penalty for truancy.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1490, As Passed 2nd House: a positive impact of \$236,809 through the biennium ending August 31, 2017.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2016	\$77,369
2017	\$159,440
2018	\$158,047
2019	\$158,047
2020	\$158,047

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Probable Revenue Gain/(Loss) from General Revenue Fund 1	Probable Revenue Gain/(Loss) from General Revenue Dedicated	Probable Revenue Gain/(Loss) from Judicial Fund 573
2016	\$218,131	(\$140,762)	(\$880,169)	(\$140,679)
2017	\$300,202	(\$140,762)	(\$880,169)	(\$140,679)
2018	\$298,809	(\$140,762)	(\$880,169)	(\$140,679)
2019	\$298,809	(\$140,762)	(\$880,169)	(\$140,679)
2020	\$298,809	(\$140,762)	(\$880,169)	(\$140,679)

Fiscal Year	Probable Revenue Gain/(Loss) from Appropriated Fund 0977 Law Enforcement and Custodial Officer Supplement Retirement Trust Fund
2016	(\$104,502)
2017	(\$104,502)
2018	(\$104,502)
2019	(\$104,502)
2020	(\$104,502)

Fiscal Analysis

The bill would repeal the offense of failure to attend school in Section 25.094 of the Education Code and removes truancy from the definition of conduct indicating need for supervision currently under the Family Code Section 51.03(b)(2). It would create a new civil offense called "truant conduct," which would apply to a child age 12 or older and younger than 19. This increases the age through which students are required to attend school by one year.

The current offense of parent contributing to nonattendance would have fines capped at \$100 for a first offense, and increase by \$100 for each subsequent offense up to a maximum of \$500.

The optional referral to court for both students and parents after unexcused absences for three days or parts of days in a four week period is removed; only referrals for unexcused absences on 10 or more days or parts of days remains. School districts are also allowed to delay or forego referring a student to truancy court if the school district applies truancy prevention measures, determines that those are succeeding, and decides it is in the best interest of the student to delay or forego court referral.

The Texas Education Agency (TEA) would be required to create minimum standards and establish best practices for truancy prevention measures, and adopt rules for sanctioning school districts found to be noncompliant with those minimum standards. The bill requires school districts to employ a truancy prevention facilitator or designate an existing employee as such. The bill would require school districts to take one or more of specified actions as truancy prevention measures if a student has unexcused absences for three days or parts of days in a four week period. The bill would prohibit a school district from referring a student to truancy court if the school determines that the student's truancy is due to pregnancy, being in foster care, homelessness, or being the principal earner for the student's family.

The bill would create a new type of truancy court. Truant conduct would only be prosecuted as a civil case and only in a truancy court. Justice, municipal, and certain constitutional county courts would be designated as truancy courts. The bill also establishes procedures for the new truancy courts. The bill requires a truant conduct prosecutor to review referrals and decide whether or not to petition the truancy court for adjudication of the case, and requires a truancy court to dismiss any referrals that do not comply with requirements. If a truancy court determines that probable cause exists to believe that a child alleged to have engaged in truant conduct has a mental illness, the court would be required to dismiss the petition. If the child, parent, or a witness in a case does not speak English, or is deaf, an interpreter must interpret for the person.

The bill requires a person to be served with a summons by registered or certified mail or in person. The bill requires a parent of a child to be present at a truancy court hearing, unless

specifically excused. If a child appears before the truancy court without a parent or guardian, or the parents or guardians are incapable or unwilling to make decisions in the best interests of the child, the court may appoint a guardian ad litem or an attorney to protect the interests of the child in the proceedings. If the parent or person responsible for supporting the child has sufficient resources, the court may require them to reimburse the county or municipality for the cost of the guardian ad litem or attorney.

If a truancy court finds that a child engaged in truant conduct, the court would be able to, after a hearing, enter remedial orders for the child, parent(s), or any other person contributing to the truant conduct. These remedial orders would vary, but could include attendance at school or tutoring, participation in certain programs or community service, or suspension of drivers' licenses or permits for the children. If the child, parent, or other person contributing to truant conduct failed to obey the truancy court orders, the truancy court could find the person in contempt of court. The bill requires juvenile courts to conduct a hearing within 20 days of a juvenile prosecutor's request for adjudication to determine a child referred from truancy court for contempt did engage in conduct that would constitute contempt.

Upon a finding of truant conduct, the child, parent, or other person responsible for the child's support could be assessed a local court cost of \$50, if the party were financially able to pay that cost. Those court costs collected would be deposited in a special account to be used only to offset the cost of the truancy court's operations. A child found to have engaged in truant conduct could apply to have his or her records sealed by the truancy court at age 18, and the truancy court would be required to seal the records after determining the child had complied with the court ordered remedies.

The bill would permit the governing body of a municipality or the county commissioners court of a county to establish a judicial trust fund to assist children and families who appear in court for truancy or parent contributing to nonattendance. Under the bill, the governing body of a municipality or the commissioners court would establish procedures to receive and disperse funds and establish the eligibility requirements to disperse money. The bill would permit a judge to award money from the judicial trust fund to assist eligible children or families to eliminate barriers to school attendance or prevent criminal behavior.

Methodology

The bill would increase the compulsory attendance age from 18 to 19. The Texas Education Agency estimates that this change will not significantly affect state cost under the Foundation School Program because the additional students subject to compulsory attendance requirements under the bill are also entitled to the benefits of the Foundation School Program under current law. TEA indicated that to the extent sanctions may be required for school districts, there may be costs associated that cannot be determined at this time.

The Office of Court Administration does not anticipate the new court procedures would cause any significant increase or decrease in the workload of the courts.

Repealing the offenses in the Education Code, which are Class C misdemeanors, would result in a loss of court cost revenue to the state from these cases. Including cases from Dallas and Fort Bend Truancy courts, as well as justice and municipal courts, there were 93,786 complaints of failure to attend school in fiscal year 2014. The Office of Court Administration estimated that 50 percent of these types of cases result in a conviction or deferred disposition, both of which result in the assessment of court costs. Applying the 50 percent conviction rate would yield 46,893 cases in which court costs would have been assessed ($93,783 \times 0.5 = 46,893$). The state portion of court

costs assessed on these cases is \$54 per case. The number of cases with court costs assessed, multiplied by the court cost per case would yield \$2,532,222 ($46,893 \times \$54 = \$2,532,222$). Assuming a collection rate to the assessed court costs of 50 percent would result in an estimated \$1,266,111 in lost court cost revenue per year ($\$2,532,222 \times 0.5 = \$1,266,111$).

Removing truancy from the definition of conduct indicating need for supervision (CINS) would result in savings to the state from a reduction in the state share of juvenile probation costs for those children who would otherwise be supervised for truancy. In fiscal year 2014, 357 children were placed on local supervision for truancy. Based on the average cost of \$5.40 per day of juvenile probation supervision found in the General Appropriations Act, this would result in an annual savings of just under \$300,000. First year savings would be less because of a delay between when an offense is committed and a child would begin supervision. If the bill becomes effective immediately, savings in the first year would be slightly greater.

Local Government Impact

County and municipal governments would see reduced revenue from the local portion of courts costs collected for the repealed Class C misdemeanor offense, which could be offset by the \$50 court cost in the new truancy court, as well as a reduction in fines collected.

Assuming 50 percent of 93,786 failure to attend cases have court costs assessed and a collection rate of 50 percent, there would be a loss of \$770,772 in revenue to local governments per year. There would be an indeterminate loss in fine revenue to local governments from the repeal of failure to attend school cases.

The new truancy court would impose a court cost of \$50 on findings of truancy, if the defendant is able to pay. OCA estimates that 90 percent of families will be able to pay. Assuming a 50 percent collection rate on those that are assessed the court cost, this court cost would yield a gain of up to approximately \$1,055,093 in revenue per year. However, referrals and revenue may be lower than estimated given that school districts would be prohibited from referring for three absences only, and would also be able to defer or forego referrals after 10 absences under certain circumstances.

Removing truancy from the definition of conduct indicating need for supervision (CINS) would also result in local savings from a reduction in the local share of juvenile probation costs for those children who would otherwise be supervised for truancy. In fiscal year 2014, 357 children were placed on local supervision for truancy. Based on the average cost of \$7.85 per day of juvenile probation supervision found in the Uniform Cost Report, this would result in an annual savings of approximately \$435,000. First year savings would be less because of a delay between when an offense is committed and a child would begin supervision. If the bill becomes effective immediately, savings in the first year would be slightly greater.

The Juvenile Justice Department indicates that several procedural changes in the bill may have local cost to both the new truancy courts and the existing juvenile courts, though these cannot be determined at this time and would vary by jurisdiction. Travis, Midland, and El Paso Counties indicated they may have to add or reassign staff to expunge failure to attend school records as required by the bill and to meet other requirements of the bill.

Earlier interventions for some students could affect attendance rates and thus school district funding, but there are no data to estimate the possible fiscal impact. There may be additional costs to school districts to either hire a truancy prevention facilitator or to add these duties to an existing employee. There may be costs to adopt policies for truancy prevention measures. Not following these measures could lead to sanctions from the TEA.

Source Agencies: 644 Juvenile Justice Department, 212 Office of Court Administration,
Texas Judicial Council, 304 Comptroller of Public Accounts, 701 Central
Education Agency

LBB Staff: UP, SD, JQ, ESi, JJ, JPo, KJo, KVe, AW

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 21, 2015

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1490 by Huberty (Relating to public school interventions for truancy and eliminating a criminal penalty and authorizing a civil penalty for truancy.), As Engrossed

Estimated Two-year Net Impact to General Revenue Related Funds for HB1490, As Engrossed: a positive impact of \$4,407,776 through the biennium ending August 31, 2017.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2016	\$2,203,888
2017	\$2,203,888
2018	\$2,203,888
2019	\$2,203,888
2020	\$2,203,888

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue</i> <i>Dedicated</i>	Probable Revenue Gain/(Loss) from <i>Judicial Fund</i> 573
2016	\$2,344,650	(\$140,762)	(\$880,169)	(\$140,679)
2017	\$2,344,650	(\$140,762)	(\$880,169)	(\$140,679)
2018	\$2,344,650	(\$140,762)	(\$880,169)	(\$140,679)
2019	\$2,344,650	(\$140,762)	(\$880,169)	(\$140,679)
2020	\$2,344,650	(\$140,762)	(\$880,169)	(\$140,679)

Fiscal Year	Probable Revenue Gain/(Loss) from <i>Other Fund Law Enforcement and Custodial Officer Supplement Retirement Trust Fund</i>
2016	(\$104,502)
2017	(\$104,502)
2018	(\$104,502)
2019	(\$104,502)
2020	(\$104,502)

Fiscal Analysis

This bill would repeal Section 25.094(e) of the Education Code, which makes the failure to attend school a Class C misdemeanor, and would amend Section 25.094 of the Education Code to make the failure to attend school punishable by a civil penalty payable to the state in an amount not to exceed \$100. The bill makes filings and referrals to court after 10 absences optional instead of mandatory, and changes the deadline for schools to file or refer to 10 days after the most recent absence, rather than the 10th absence.

The bill also allows a school district to adopt specific progressive truancy interventions and apply them before referring a child to court. A progressive truancy intervention system is defined as having at least three tiers of interventions which are specified in the bill. The first tier may be applied to a student who has at least three unexcused absences within a school year. The bill also requires records related to a truancy offense to be automatically expunged.

Methodology

In fiscal year 2014, there were 93,786 cases filed for failure to attend school. Repeal of failure to attend school as a Class C misdemeanor would result in loss of court costs assessed and collected for the state of approximately \$1.3 million per year. However, this will be offset by the collection of civil penalties for the same conduct with an estimated gain to the state of about \$2.3 million per year.

Class C misdemeanor failure to attend school cases generate revenue to the state for court costs collected by justice and municipal courts. It is estimated that 50 percent of the cases filed result in convictions or deferred dispositions where court costs were assessed. The typical court cost revenue from one of these cases in justice court is \$87. The portion directed to the state is \$54, and the portion retained by the county is \$33. The typical court cost revenue from one of these cases in municipal court is \$86 (\$54 to the state; \$32 retained by the municipality). This analysis assumes a 50 percent conviction rate and a 50 percent collection rate. Based on fiscal year 2014 case numbers, repeal of the Class C misdemeanor offense for failure to attend school will result in reduction in court costs assessed and collected for the state of about \$1.3 million per year.

This estimate assumes 93,786 civil truancy cases would continue to be referred per year in the future. The Office of Court Administration and the Comptroller estimated that 50 percent of the cases filed will result in a court finding that an individual engaged in failure to attend school conduct, and a typical civil penalty would be \$100. Assuming a 50 percent conviction rate and a 50 percent collection rate applied to the number of cases, collection of civil penalties is estimated to yield a gain to the state of \$2.3 million per year.

Local Government Impact

The bill would clarify that courts are required to dismiss failure to attend school complaints that lack statutorily required elements, are filed against defendants outside the age range for the offense, or are filed after the required deadline. Courts would be required to dismiss complaints before scheduling a hearing and without requiring the presence of the defendant.

County and municipal governments will see reduced revenue from the local portion of court costs collected for the repealed Class C misdemeanor offense, as well as a reduction in fines collected. Assuming 93,786 failure to attend cases in which court costs were assessed and a collection rate of 50%, there would be a decrease of \$770,772 in revenue to local governments per year. Additionally, there may be an indeterminate loss in fine revenue to local governments.

The bill would also repeal the current \$30 fee is collected and retained by local governments to defray the cost of expunctions. Travis, Midland, and El Paso Counties indicated they may have to add or reassign staff to expunge the records as required by the bill and to meet other requirements of the bill. The impact may be significant but cannot be determined at this time and would vary by jurisdiction.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304
Comptroller of Public Accounts, 644 Juvenile Justice Department, 701
Central Education Agency

LBB Staff: UP, KJo, JJ, JQ, ESi, SD, KVe, JBi, JPo

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 22, 2015

TO: Honorable Harold V. Dutton, Jr., Chair, House Committee on Juvenile Justice & Family Issues

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB1490** by Huberty (Relating to public school interventions for truancy and eliminating a criminal penalty and authorizing a civil penalty for truancy.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1490, Committee Report 1st House, Substituted: a positive impact of \$2,063,126 through the biennium ending August 31, 2017.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2016	\$1,031,563
2017	\$1,031,563
2018	\$1,031,563
2019	\$1,031,563
2020	\$1,031,563

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from General Revenue Fund 1	Probable Revenue Gain/(Loss) from General Revenue Fund 1	Probable Revenue Gain/(Loss) from General Revenue Dedicated	Probable Revenue Gain/(Loss) from Judicial Fund 573
2016	\$1,172,325	(\$140,762)	(\$880,169)	(\$140,679)
2017	\$1,172,325	(\$140,762)	(\$880,169)	(\$140,679)
2018	\$1,172,325	(\$140,762)	(\$880,169)	(\$140,679)
2019	\$1,172,325	(\$140,762)	(\$880,169)	(\$140,679)
2020	\$1,172,325	(\$140,762)	(\$880,169)	(\$140,679)

Fiscal Year	Probable Revenue Gain/(Loss) from <i>Other Fund Law Enforcement and Custodial Officer Supplement Retirement Trust Fund</i>
2016	(\$104,502)
2017	(\$104,502)
2018	(\$104,502)
2019	(\$104,502)
2020	(\$104,502)

Fiscal Analysis

This bill would repeal Section 25.094(e) of the Education Code, which makes the failure to attend school a Class C misdemeanor, and would amend Section 25.094 of the Education Code to make the failure to attend school punishable by a civil penalty payable to the state in an amount not to exceed \$100. The bill makes filings and referrals to court after 10 absences optional instead of mandatory, and changes the deadline for schools to file or refer to 10 days after the most recent absence, rather than the 10th absence.

The bill also requires a school district to adopt specific progressive truancy interventions and apply them before referring a child to court. A progressive truancy intervention system must include at least three tiers of interventions which are specified in the bill. The first tier should be applied to a student who has at least three unexcused absences within a school year. The bill also requires records related to a truancy offense to be automatically expunged.

Methodology

In fiscal year 2014, there were 93,786 cases filed for failure to attend school. Repeal of failure to attend school as a Class C misdemeanor would result in loss of court costs assessed and collected for the state of approximately \$1.3 million per year. However, this will be somewhat offset by the collection of civil penalties for the same conduct with an estimated gain to the state of about \$1.2 million per year.

Class C misdemeanor failure to attend school cases generate revenue to the state for court costs collected by justice and municipal courts. It is estimated that 50 percent of the cases filed result in convictions or deferred dispositions where court costs were assessed. The typical court cost revenue from one of these cases in justice court is \$87. The portion directed to the state is \$54, and the portion retained by the county is \$33. The typical court cost revenue from one of these cases in municipal court is \$86 (\$54 to the state; \$32 retained by the municipality). This analysis assumes a 50 percent conviction rate and a 50 percent collection rate. Based on fiscal year 2014 case numbers, repeal of the Class C misdemeanor offense for failure to attend school will result in reduction in court costs assessed and collected for the state of about \$1.3 million per year.

It is assumed that the required progressive truancy interventions would reduce the number of referrals to court by 50 percent. Therefore, there may be approximately 46,893 civil truancy cases referred per year in the future. The Office of Court Administration and the Comptroller estimated that 50 percent of the cases filed will result in a court finding that an individual engaged in failure to attend school conduct, and a typical civil penalty would be \$100. Assuming a 50 percent conviction rate and a 50 percent collection rate applied to the reduced number of cases, collection of civil penalties is estimated to yield a gain to the state of \$1.2 million per year.

Local Government Impact

County and municipal governments will see reduced revenue from the local portion of court costs collected for the repealed Class C misdemeanor offense, as well as a reduction in fines collected. Assuming 93,786 failure to attend cases in which court costs were assessed and a collection rate of 50%, there would be a decrease of \$770,772 in revenue to local governments per year. Additionally, there may be an indeterminate loss in fine revenue to local governments.

The bill would also repeal the current \$30 fee is collected and retained by local governments to defray the cost of expunctions. Travis, Midland, and El Paso Counties indicated they may have to add or reassign staff to expunge the records as required by the bill and to meet other requirements of the bill. The impact may be significant but cannot be determined at this time and would vary by jurisdiction.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304
Comptroller of Public Accounts, 644 Juvenile Justice Department, 701
Central Education Agency

LBB Staff: UP, ESi, JJ, JQ, SD, KVe, JBi, JPo

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

March 10, 2015

TO: Honorable Harold V. Dutton, Jr., Chair, House Committee on Juvenile Justice & Family Issues

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1490 by Huberty (Relating to public school interventions and procedures for truancy.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1490, As Introduced: a negative impact of (\$8,665,166) through the biennium ending August 31, 2017.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2016	(\$3,696,742)
2017	(\$4,968,424)
2018	(\$4,968,424)
2019	(\$4,968,424)
2020	(\$4,968,424)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Probable Revenue Gain/(Loss) from General Revenue Fund 1	Probable Revenue Gain/(Loss) from General Revenue Dedicated Accounts	Probable Revenue Gain/(Loss) from Judicial Fund 573
2016	(\$3,438,251)	(\$258,491)	(\$1,616,319)	(\$258,339)
2017	(\$4,709,933)	(\$258,491)	(\$1,616,319)	(\$258,339)
2018	(\$4,709,933)	(\$258,491)	(\$1,616,319)	(\$258,339)
2019	(\$4,709,933)	(\$258,491)	(\$1,616,319)	(\$258,339)
2020	(\$4,709,933)	(\$258,491)	(\$1,616,319)	(\$258,339)

Fiscal Year	Probable Revenue Gain/(Loss) from <i>Other Fund 977 Law Enforcement and Custodial Officer Supplement Retirement Trust Fund</i>
2016	(\$191,905)
2017	(\$191,905)
2018	(\$191,905)
2019	(\$191,905)
2020	(\$191,905)

Fiscal Analysis

The bill would repeal the offense of failure to attend school in Section 25.094 and parent contributing to nonattendance in Section 25.093 of the Education Code. School districts would still be allowed, but no longer required, to refer children to court for conduct indicating a need for supervision (CINS) described under section 51.03(b)(2) for the absence of a child on 10 or more days or parts of days within a six-month period. However, the bill would no longer allow a school district to refer a child to juvenile court for fewer than 10 unexcused absences in six months.

The bill requires a school district to adopt specific progressive truancy interventions and apply them before referring a child to juvenile court. A progressive truancy intervention system must include at least three tiers of interventions which are specified in the bill. The first tier should be applied to a student who has at least three unexcused absences within a school year.

Methodology

Repealing the offenses in the Education Code, which are Class C misdemeanors and heard primarily in justice, municipal, and constitutional county courts, would result in a loss of court cost revenue to the state from these cases. Including cases from Dallas and Fort Bend Truancy courts, and justice and municipal courts, there were 93,786 complaints of failure to attend school and 78,440 complaints of parent contributing to nonattendance in fiscal year 2014, for a total of 172,226 cases. The Office of Court Administration estimated that 50 percent of both of these types of cases result in a conviction or deferred disposition, both of which result in the assessment of court costs. Applying the 50 percent conviction rate would yield 86,113 cases in which court costs are assessed ($172,226 \times 0.5 = 86,113$). The state portion of court costs assessed on these cases is \$54 per case. The number of cases with court costs assessed, multiplied by the court cost per case would yield \$4,650,102 ($86,113 \times \$54 = \$4,650,102$). Assuming a collection rate to the assessed court costs of 50 percent would equal \$2,325,051 in lost court cost revenue per year ($\$4,650,102 \times 0.5 = \$2,325,051$). This would be partially offset by reductions in court caseloads.

Requiring these cases to go through juvenile courts as CINS would increase the number of referrals to juvenile courts and local juvenile probation departments. Some portion of those juveniles referred would be placed on deferred prosecution or probation supervision. Of current referrals to juvenile court for CINS for truancy or failure to attend school, 37 percent are currently placed on deferred prosecution or probation supervision for an average length of stay of 155 days. Because some of these cases currently only go to juvenile court for the third or subsequent offense, it is assumed that a smaller percentage of the total number of cases would end up on deferred prosecution or probation supervision if they were all referred to juvenile court only. It is assumed that the required progressive truancy interventions would reduce the number of referrals to juvenile court by 50 percent. Independently, eliminating the ability to refer a child to juvenile

court after only three unexcused absences could also reduce the referrals to juvenile court. However, this analysis assumes that those who would be referred for fewer than 10 absences would already be included in the reductions attributed to the progressive truancy interventions. Therefore, assuming 50 percent or 46,893 of former failure to attend school cases were referred to juvenile court, and that 12 percent of those ended up on deferred prosecution or probation for 155 days each, there would be an additional 872,210 days of supervision per year. Using the \$5.40 cost per day to the state for basic supervision for juveniles, as included in the General Appropriations Act, this would result in an additional cost of \$4,709,933 per year. This bill goes into effect September 1, 2015, and this estimate assumes it would take about a month for juveniles to begin supervision, and not all of those placed on supervision would complete the entire length of stay within the fiscal year; therefore, the first year costs would be approximately \$3,438,251.

Some of the juveniles referred to juvenile probation would also be served in a program. The state does provide some funding that is used for juvenile probation programs. However, it is unknown how many of these juveniles would be served by programs and which programs they would attend. The cost and length of those programs is also therefore unknown. Accordingly, there could be an additional cost to the state for juvenile probation programs that is not included in this fiscal impact estimate.

Local Government Impact

County and municipal governments will see reduced revenue from the local portion of courts costs collected for the repealed Class C misdemeanor offenses, as well as a reduction in fines collected. Assuming 86,113 cases in which court costs are assessed and a collection rate of 50%, there would be a decrease of \$1,416,807 in revenue to local governments per year. Additionally, there may be an indeterminate loss in fine revenue to local governments. The bill would also repeal the expunction statute, along with its \$30 fee is collected and retained by local governments; however, the Office of Court Administration anticipates that the fiscal impact would not be significant.

Midland County Justice of the Peace reports there would be a loss of revenue from court cost, including costs to fund juvenile case managers.

Counties may see increased costs due to increases in CINS truancy cases being handled by local juvenile probation departments. However, the increase may be moderated by a decrease in prosecutions for truancy due to the required progressive sanctions. This analysis assumes that the progressive sanctions would reduce the number of referrals to juvenile court by 50 percent to 46,893 cases. Assuming that 12% of cases referred were given deferred prosecution or probation for an average of 155 days at \$7.85 per day, there would be a total cost of \$6,846,847 per year to local juvenile probation departments for basic supervision. There could also be an additional cost to locals for juvenile probation programs that is not included in this fiscal impact estimate.

According to OCA, counties will have to pay for legal representation by an attorney in juvenile court in the limited cases in which a prosecutor files a petition against an indigent child for the CINS conduct of truancy; however, this is not anticipated to be significant.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304
Comptroller of Public Accounts, 644 Juvenile Justice Department, 701
Central Education Agency

LBB Staff: UP, ESi, JJ, JQ, SD, KVe, JBi, JPo